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Trial

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

S1 12 Cr. 376 (RMB)

5 RUDY KURNIAWAN, a/k/a "Dr. Conti,"
6 a/k/a "Mr. 47,"

7 Defendant.

8 -----x

December 12, 2013
8:57 a.m.

9 Before:

10 HON. RICHARD M. BERMAN,

11 District Judge

12 APPEARANCES

13 PREET BHARARA,
14 United States Attorney for the
15 Southern District of New York
16 JASON HERNANDEZ,
17 JOSEPH FACCIPONTI,
Assistant United States Attorneys

18 WESTON, GARROU & MOONEY
Attorneys for defendant
19 BY: JEROME MOONEY

20 VERDIRAMO & VERDIRAMO, P.A.
Attorneys for defendant
21 BY: VINCENT S. VERDIRAMO

22 - also present -

23 Ariel Platt, Government paralegal

24 SA James Wynne, FBI
SA Adam Roeser, FBI

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Trial

1 (Trial resumed; jury and defendant not present)

2 MR. MOONEY: Your Honor, a little issue.

3 I have concern about the placement of the screen for
4 the press. What's happening is when exhibits go up -- I had
5 mentioned this to Mr. Hernandez. When exhibits go up on there,
6 the press comes up and crowds around it and there is whispering
7 going on there, and they are just feet away from where the jury
8 is. I am just wondering if we could move that screen a little
9 further away, maybe to the other side of the bar so that --

10 THE COURT: I don't know that we can -- is it on a
11 rolling thing?

12 THE CLERK: It is on wheels.

13 MR. MOONEY: It is on wheels.

14 THE COURT: So we could move it back a little bit and,
15 you know -- and Christine, you will tell the press -- or I'll
16 tell the press, you know, keep it down.

17 MR. MOONEY: Because we don't know what they're
18 saying.

19 (Discussion off the record)

20 THE COURT: Let's just talk to the press instead of
21 trying to move that because it won't work. Let's leave that
22 where it is.

23 (Discussion off the record)

24 (Pause)

25 (Defendant and witness present)

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Trial

1 THE COURT: How are you?

2 MR. HERNANDEZ: Good morning.

3 THE COURT: Good morning, everybody. I gather we have
4 a full jury and we will call them out and continue with Agent
5 Schmatz's testimony.

6 (Continued on next page)

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Trial

1 (Jury present)

2 THE COURT: So we have one more juror, I think, or
3 two. OK.

4 So, good morning, everybody. Please be seated. Nice
5 to see you.

6 You will remember that at the end of yesterday we had
7 FBI Special Agent Trenton Schmatz on the witness stand, and we
8 will continue with his direct examination this morning.

9 THE CLERK: Sir, before we begin, I would like to
10 remind you, you are still under oath.

11 THE WITNESS: Yes, ma'am.

12 THE CLERK: Thank you. You may be seated.

13 TRENTON SCHMATZ,

14 Resumed, and testified further as follows:

15 DIRECT EXAMINATION (Resumed)

16 BY MR. HERNANDEZ:

17 Q. Agent Schmatz, I want to pick up where we left off
18 yesterday. We were about to look at Government Exhibit 14-3,
19 which is a collection of different documents and images that
20 were taken by Agent Wynne from the FTK report for one of the
21 computers seized from the defendant's home. Do you remember
22 that?

23 A. Yes.

24 MR. HERNANDEZ: All right. With the Court's
25 permission, if we could display 14-3, the folder?

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Schmatz - direct

1 THE COURT: Sure.

2 MR. HERNANDEZ: We have to wait a moment for the
3 switch over so the jury could see it.

4 THE COURT: Yes. And you and I.

5 MR. HERNANDEZ: That's right.

6 BY MR. HERNANDEZ:

7 Q. OK. Agent Schmatz, how many documents or files or images
8 are in this folder?

9 A. It looks like 610.

10 Q. All right. We are not going to go through all 610, but
11 what I would like to do, with the Court's permission, is if
12 Mr. Platt could just scroll down this folder, we reflected the
13 largest images sizes so the jury could just see what's in this
14 folder.

15 THE COURT: OK.

16 (Pause)

17 MR. HERNANDEZ: We will stop there. We are maybe a
18 quarter of the way through. The jury, if they would like, they
19 can see the rest of the images.

20 I would like, Mr. Platt, if you could, just to pull up
21 five images in particular so we could see those a little bit
22 closer up.

23 Mr. Platt, could you pull up the image that is marked
24 76394.

25 (Pause)

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Schmatz - direct

1 And then can you pull up 76069.

2 (Pause)

3 Then 74850.

4 (Pause)

5 54526.

6 (Pause)

7 And then 58651.

8 (Pause)

9 All right. Thank you.

10 BY MR. HERNANDEZ:

11 Q. Some of the files in this folder say they are png files or
12 jpg files. Do you know what those are?

13 A. Yes. Those are both graphic file types. So, for instance,
14 you may be familiar with jpg, which is jpegs. Those are
15 typically the files that your run-of-the-mill digital camera
16 will produce, and it is just a graphic file type.

17 Png also is a graphic file type. It stands for
18 Portable Network Graphic, and this file type has a little less
19 compression than a jpeg file, which means that it will
20 typically take up more room. The size will be bigger.
21 However, it will have more detail typically.

22 Q. And that detail translates into a higher quality image?

23 A. Correct.

24 MR. HERNANDEZ: And if we could show just to the
25 witness Government Exhibit 14-5.

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Schmatz - direct

1 Could you just scroll across the screen, Mr. Platt, so
2 the witness can see the document a little bit better.

3 Q. Do you recognize this document?

4 A. Yes, I do.

5 Q. How do you recognize it?

6 A. I created this document. It's a file listing of the files
7 that are on that disc.

8 Q. All right. So is it a file listing of the same files that
9 we just looked at in 14-3?

10 A. Yes.

11 Q. What kind of data does it contain?

12 A. So on this file listing, what I did was I culled down some
13 of the metadata from the files to include the file name, the --
14 if you could just scroll across. I don't want to leave
15 anything out. OK.

16 So what we have here is we have -- the first column is
17 the item number. The item number is what FTK assigns to every
18 file that it finds within the computer. It will assign its own
19 unique file number.

20 Then the next column is the file name. And in this
21 case most of them have the file names -- their original file
22 names. Some of them, if you look there, you will see "DC" with
23 a number across it. That stands for a deleted file. The way
24 the Windows operating system works is when a file is deleted or
25 put into the recycle bin, it no longer refers to it with its

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Schmatz - direct

1 original file name; it will give it a "D," for deleted, and
2 then the "C" would be the drive that it was deleted from. So,
3 for instance, you see -- most of them I believe are DC, so
4 deleted from the C drive, and then it gives it a number. So
5 that is the file name.

6 The next one is the full path. And that would be the
7 path within the Windows operating system in which the file was
8 found when we did our examination.

9 And then after that we have the creation, modification
10 and access dates of each file, so the date the file was created
11 on that particular media. Now, just to distinguish, it is not
12 the date the file -- it is not necessarily the date the file
13 was truly created but the date that file was created on that
14 particular hard drive or thumb drive, or whatever. So, for
15 instance, if, you know, I had a digital camera and I took a
16 picture on January 1st and then on February 1st I decided to
17 transfer that picture to my computer, the creation date of that
18 picture should show up as February 1st. So that is the
19 creation date.

20 The modification date would be the last date that that
21 particular file had been modified in any way. For instance,
22 you type up a Word document and you make changes along the way,
23 your last modification date will display as the modification
24 date of that file.

25 And the access date would be the last date that you

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1 accessed or that a user accessed that file, so went into that
2 file, you know, double clicked on it, if you will, to take a
3 look at it.

4 The next file there is deleted. I was mentioning that
5 before, that when a file goes into the recycle bin, that it
6 will give it that DC designation. But what FTK does in its
7 file listing is that it only recognizes deleted files as files
8 that it actually had to recover, so things that were then
9 emptied from your recycle bin. So you can think about it as if
10 when you take out your garbage, you know, you may take your
11 garbage from your kitchen. You may put it into your garbage
12 can outside, you know, your side door. So now that garbage is
13 outside your house and you've gotten rid of it. If you ever
14 needed to go back, you could go and open up your garbage and
15 find something out of there. However, once the garbage men
16 come and take your garbage, then it is truly gone. And that is
17 the way we think about the recycle bin, and that's the way the
18 FTK program thinks about it as well.

19 So in this case these files, these files in the
20 beginning, were considered to be recycled files. That's why
21 the deleted section is not checked.

22 So then we have the recycle column. Those were files
23 recovered from the recycle bin, and then I included the recycle
24 bin original name so that we know what the name of the file was
25 before it got that DC designation.

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Schmatz - direct

1 And that's the end of that particular file.

2 MR. HERNANDEZ: The government offers 14-5.

3 THE COURT: I will allow it.

4 (Government's Exhibit 14-5 received in evidence)

5 MR. HERNANDEZ: Mr. Platt, if you could focus in on
6 the create/modify date.

7 Q. This spreadsheet contains several hundred entries, doesn't
8 it?

9 A. Yes.

10 Q. Because there were several hundred files in the folder?

11 A. Correct.

12 Q. And if we could, I'm just going to ask Mr. Platt to scroll
13 through the first page from the create/modify date and ask the
14 jury just to take a look at the dates and we will go all the
15 way down to the bottom of the first page.

16 (Pause)

17 MR. HERNANDEZ: I think we can stop there for a
18 moment.

19 Q. Agent Schmatz, is it fair to say that there are a number of
20 create or modify dates that are from 2004/2005 from the files
21 from this computer?

22 A. Yes.

23 MR. HERNANDEZ: No further questions.

24 THE COURT: Mr. Mooney.

25 MR. MOONEY: Thank you.

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Schmatz - direct

1 CROSS-EXAMINATION

2 BY MR. MOONEY:

3 Q. Good morning.

4 A. Good morning.

5 MR. MOONEY: Could you bring up 14-2, please?

6 Q. What was Exhibit 14-2?

7 THE COURT: Let's see. Let him bring it up.

8 MR. MOONEY: It is not there? Maybe I can work from
9 the Elmo. I will switch over to the Elmo.

10 Q. Have you looked at the three files in Government's Exhibit
11 14 -- 14-1, 14-2 and 14-3?

12 A. The three files?

13 Q. The three compilations.

14 A. The discs that we talked about yesterday?

15 Q. I think so. I just want to clarify exactly what we've
16 gotten.

17 A. I just don't remember what each of the 14s is. I
18 apologize.

19 Q. OK. But some were taken from his computer, some were taken
20 from the camera and some were taken from the flash drives.

21 A. Are we talking about the files?

22 Q. Yes. You were just looking at 14-3 a few minutes ago.

23 A. OK.

24 Q. Where did 14-3 come from?

25 A. The files from 14-3 were from the 80-gigabyte hard drive

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Schmatz - cross

1 from one of the Sony Vaio laptops.

2 Q. That was from one of the computers?

3 A. Correct.

4 Q. That is where those came from.

5 Do you know where the files that are included within
6 14-2 came from?

7 A. I don't know which one got designated as 14-2.

8 Q. Now, if I show you -- there appear to be a bunch of
9 thumbnails. If I show you those thumbnails, does that help you
10 figure out where those came from?

11 A. If I could see the exhibit, I could be able to tell you
12 exactly.

13 Q. Do you have the exhibit?

14 MR. MOONEY: Does he have the exhibit?

15 MR. HERNANDEZ: Your Honor, we have the exhibit on a
16 CD. We don't have it loaded up since the folders are dense and
17 they take a long time to load.

18 THE COURT: All right.

19 A. Even if I could see the physical disc, I could just --

20 THE COURT: Do you have the three discs? Yesterday
21 there were three discs, one each for two laptops and then one
22 for the other devices. Do you have those discs?

23 MR. HERNANDEZ: We have those.

24 Those are the FTK reports?

25 THE COURT: Yes.

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Schmatz - cross

1 MR. HERNANDEZ: We have those.

2 THE COURT: So why don't we just show that to
3 Mr. Mooney and maybe that will help him and to the witness.

4 Would that help you, Mr. Mooney?

5 MR. MOONEY: If it would help him, it would help me.
6 I could bring you the book. I could show you the
7 book.

8 THE WITNESS: Sure. Absolutely.

9 THE COURT: You could do you that.

10 Q. Here is the printouts of 14-2. However --

11 THE COURT: Could you locate that in the meantime?

12 MR. HERNANDEZ: We are happy to do that, your Honor.
13 The exhibits, though, the 14-1, 2 and 3 were taken from the FTK
14 report.

15 THE COURT: I get it, but I would rather have them
16 handy.

17 BY MR. MOONEY:

18 Q. Looking at this, can you figure out where those came from?

19 A. Not just by looking at these. I mean, I just need to --
20 they either came from the 500-gigabyte hard drive or from the
21 flash media that I did. I just don't know what 14-2 refers to.
22 I just need to see it again.

23 Q. That is fair. What about the camera? Where did the camera
24 end up?

25 A. The SD card from the camera wound up with the flash media

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Schmatz - cross

1 that we examined.

2 Q. But is it fair to say, at least, that since 14-3 was the
3 hard drive from one of the computers, 14-1 and 14-2 are each
4 going to represent either the flash media or the other
5 computer?

6 A. Yes.

7 THE COURT: Mr. Moody, you have those discs. If you
8 want to show the witness?

9 MR. MOONEY: There we go.

10 THE WITNESS: Perfect.

11 MR. MOONEY: The disc doesn't tell us where they went.

12 THE COURT: Well, maybe he could --

13 Q. Maybe you could interpret it.

14 A. Sure.

15 Q. I want to make sure we know where the things we are talking
16 about came from.

17 Maybe that is my confusion, because those are your
18 discs. Can you tell us where each of those -- the images from
19 each of those, where they went and ended up in Exhibits 14-1, 2
20 and 3?

21 MR. HERNANDEZ: Your Honor, I am going to object
22 because of personal knowledge, because it was Agent Wynne who
23 took the documents.

24 THE COURT: I will allow it. Let him answer the
25 question.

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Schmatz - cross

1 MR. HERNANDEZ: I am going to offer a proffer of where
2 things came from, if that is helpful to Mr. Mooney.

3 MR. MOONEY: That would help. We could at least have
4 a proffer, your Honor.

5 THE COURT: Why don't you just go off the record and
6 why don't you just explain it to him.

7 MR. MOONEY: Great.

8 (Counsel conferred)

9 MR. MOONEY: We getting updated ones and maybe the
10 update will help.

11 Can we stipulate then, for the record, that 14-2 are
12 images that were taken from the BlackBerry Torch?

13 MR. HERNANDEZ: We have no objection, yes.

14 BY MR. MOONEY:

15 Q. Do you remember the BlackBerry Torch?

16 A. I do remember it. I didn't do the examination on the
17 BlackBerry Torch, though.

18 Q. So somebody else would have collected those images and put
19 them in here?

20 A. I didn't do the examination.

21 Q. So you don't know whether what was on the BlackBerry Torch
22 was accurately collected and put into the exhibit; is that what
23 you are telling us?

24 A. No. I'm only telling you I didn't do the examination so
25 it's difficult for me to answer any questions other than, you

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Schmatz - cross

1 know. I mean --

2 THE COURT: Why don't you tell us again what you did
3 and then what somebody else did.

4 THE WITNESS: Sure. So the BlackBerry Torch was one
5 of the items that Special Agent Wynne brought to me for
6 examination. However, this particular BlackBerry Torch, I
7 believe it was password protected with a level of encryption
8 that we couldn't break in the field. So in those instances we
9 will send those to our headquarters lab, and our headquarters
10 lab is the one that conducted the examination of the BlackBerry
11 Torch.

12 MR. HERNANDEZ: Your Honor, may I object?

13 May I speak to Mr. Mooney for a second to clarify?

14 THE COURT: Sure.

15 MR. MOONEY: Maybe that will help.

16 (Counsel conferred)

17 MR. MOONEY: Your Honor, I would like to read into the
18 record a stipulation.

19 This is stipulation Exhibit No. 29-10.

20 "It is hereby stipulated and agreed by and among the
21 United States of America, by Preet Bharara, United States
22 Attorney for the Southern District of New York, Joseph P.
23 Facciponti and Jason P. Hernandez, Assistant United States
24 Attorneys, of counsel, and Rudy Kurniawan, defendant, by and
25 with the consent of his attorneys, Jerome Mooney, Esq. and

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Schmatz - cross

1 Vincent Verdiramo, Esq., that Government Exhibit 12-9-A is a
2 disc that contains in electronic format true and accurate
3 copies of electronic documents and other information stored in
4 the electronic memory of Government's Exhibit 12-9."

5 And 12-9 was the BlackBerry Torch.

6 "It is further stipulated and agreed that this
7 stipulation may be received in evidence at trial of the
8 above-referenced matter," and it is signed out by the parties.

9 THE COURT: Great.

10 I don't remember. Was that offered before, and if it
11 was not, if you want to offer it now, I will --

12 MR. MOONEY: We offer it now, your Honor.

13 THE COURT: I will admit it into evidence.

14 MR. MOONEY: Thank you.

15 MR. HERNANDEZ: It is 29-10.

16 (Government's Exhibit 29-10 received in evidence)

17 MR. MOONEY: Has 14-2 been admitted into evidence,
18 then?

19 MR. HERNANDEZ: Yes.

20 BY MR. MOONEY:

21 Q. So just to clarify, and then we can move on, your role and
22 your job was to make sure that the material was gathered from
23 these various device, at least the ones that you had control
24 of, and then collected onto the discs, and you were not
25 responsible, then, for removing or selecting what was on the

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Schmatz - cross

1 discs that would then be displayed in the exhibits; is that
2 fair?

3 A. That's somewhat fair. I mean, you know, I was the one who
4 actually did the physical exportation of the files, but it was
5 primarily Special Agent Wynne who then selected the files that
6 he found to be relevant to his investigation.

7 Q. Have you had enough opportunity to examine the 14 series of
8 exhibits, 14-1, 2 and 3, to look at what's there?

9 A. If you could just tell me what 14-1, 2 and 3 are?

10 Q. For example, you were shown 14-3. That is the one that
11 Mr. Hernandez was showing you up on the screen.

12 A. So the Sony Vaio, the 80-gig hard drive?

13 Q. Yes.

14 A. Yes, I did have an opportunity to look through that.

15 Q. What we saw on the screen was not everything that was on
16 the Sony Vaio, was it?

17 A. Correct.

18 Q. It was a number of things that had been selected --

19 A. That's correct.

20 Q. -- to be put on there?

21 A. Yes.

22 Q. And the same process occurred with regards to the others,
23 is that correct?

24 A. The others --

25 Q. 14-1 and 14-2, you would expect the same process?

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Schmatz - cross

1 A. 14-1 being the flash media and 14-2 being the 500-gig hard
2 drive?

3 Q. Yes.

4 A. Yes.

5 THE COURT: Would it be fair to say that you made the
6 discs, so to speak, and Special Agent Wynne asked you to remove
7 some data from there which wound up in the exhibits that
8 Mr. Mooney is talking about?

9 THE WITNESS: I think it would be fair to say that
10 Special Agent Wynne primarily selected the files. If I --
11 during the course of my examination, if I see a file that I
12 feel is going to be relevant, I will select it for, you know,
13 presentation to the investigator.

14 BY MR. MOONEY:

15 Q. And the primary media in the 12 series, those discs that
16 you made, there was an enormous amount of data that was in
17 there, is that true?

18 A. I really don't remember.

19 Q. Over 200,000 files, weren't there?

20 A. Over 200,000 files on the discs?

21 Q. On those discs.

22 A. I don't know. I don't know how many files are on there.

23 Q. But at any rate, as we look at the exhibits that have been
24 culled from there, we should not expect that those are going to
25 be everything or necessarily even most of what would have been

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Schmatz - cross

1 included on the computers; there could be lots of other things?

2 A. Certainly.

3 MR. MOONEY: No more questions.

4 THE COURT: Any redirect?

5 MR. HERNANDEZ: No, your Honor.

6 THE COURT: Thanks very much.

7 We will have the government's next witness.

8 (Witness excused)

9 MR. HERNANDEZ: The government calls Laurent Ponsot.

10 THE CLERK: Sir, if you could step up here, please.

11 Remain standing by that chair, and raise your right hand
12 please.

13 LAURENT PONSOT,

14 called as a witness by the government,

15 having been duly sworn, testified as follows:

16 THE CLERK: Could you please state your full name for
17 the record and spell your first as well as your last name?

18 THE WITNESS: Laurent Ponsot.

19 THE CLERK: Spell your first name, please.

20 THE WITNESS: L-a-u-r-e-n-t.

21 THE CLERK: And spell your last name.

22 THE WITNESS: P-o-n-s-o-t.

23 THE CLERK: Thank you, sir. You may be seated.

24 DIRECT EXAMINATION

25 BY MR. HERNANDEZ:

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Ponsot - direct

1 Q. Good morning.

2 THE COURT: If we could ask you to speak into that
3 microphone. Thanks.

4 BY MR. HERNANDEZ:

5 Q. Good morning, Mr. Ponsot. Could you tell us where you
6 live?

7 A. I'm living in Burgundy in the village of Morey Saint Denis.

8 THE COURT: And that would be France, right?

9 THE WITNESS: France, yes.

10 Q. Can you tell us what you do for a living?

11 A. I'm the wine maker.

12 Q. Where?

13 A. In Morey Saint Denis, in Burgundy, in France.

14 Q. And does the Domaine have a name?

15 A. The estate is Domaine Ponsot, the same as my family name.

16 Q. And do you have a position or a title at Domaine Ponsot?

17 A. I am the manager, co-owner of the winery.

18 Q. And who is the other owner?

19 A. My three sisters are the co-owners.

20 Q. And how long have you been the manager or the head of the
21 Domaine Ponsot?

22 A. I came back working in the family winery in 1981, and since
23 that time I work at the Domaine. I took over from my father in
24 1992.

25 Q. And approximately how long was your father the head of

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Ponsot - direct

1 Domaine Ponsot?

2 A. My father was during probably 35 years head of the Domaine.

3 Q. And who was the head of the Domaine before your father?

4 A. My grandfather, Hippolyte Ponsot, was from 1922 until 1958.

5 Q. You told us that you live and you work in Burgundy. The
6 jury has heard quite a bit about Burgundy. Would it be helpful
7 for you to explain a little bit about where you live and where
8 you work if we show the jury a map of Burgundy so you could
9 point out where the Domaine is?

10 A. Yeah. That would be a big help, for sure.

11 MR. HERNANDEZ: Your Honor, may we use the easel and
12 bring what's been marked for identification as Government
13 Exhibit 19-1.

14 I ask if the witness could step down from the stand so
15 that he can point on this map to different locations.

16 Is that all right, your Honor?

17 THE COURT: Sure.

18 MR. HERNANDEZ: Mr. Ponsot, could you just step down
19 here for a moment.

20 (At the jury rail)

21 BY MR. HERNANDEZ:

22 Q. What we have here is Government Exhibit 19-1. Tell us if
23 you recognize this map.

24 A. Yes. This big map is a map of the vineyards of Burgundy.

25 And this is the map of France, and the location of

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Ponsot - direct

1 Burgundy, France is located like center east of the country and
2 south of Paris. And this is not the biggest wine region in
3 France, but this is one of the most famous, for sure, with
4 Bordeaux.

5 And this is -- if I may go on explaining?

6 Q. Please.

7 A. From Dijon to Macon, this is the whole wine region. But
8 the wine region which is focused on today is what we called the
9 Cote de Beaune and Cote de Nuits.

10 Q. Thank you.

11 A. So to make it quite short, the best red wines of Burgundy
12 are produced in the Cote de Nuits, which is between Dijon and
13 Cote Corgoloin, which is this little village here.

14 So there is a red line here that separates Cote de
15 Nuits from Cote de Beaune. So maybe the Concord Burgundy red
16 are produced here and the white down here.

17 Q. Could you show us where your village is?

18 A. The village of Morey St. Denis is here, right in the center
19 of the best red wines of Burgundy.

20 Q. Thank you very much. You can return back to the witness
21 stand now. Thank you.

22 Could you tell us a little bit about how Domaine
23 Ponsot started?

24 A. Domaine Ponsot has been established in 1872 by my ancestor
25 William Ponsot. William Ponsot bought the house and vineyards

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Ponsot - direct

1 in Morey St. Denis in 1872, and we go on working in the family
2 since that date.

3 Q. And do you know what it means if a wine is estate bottled?

4 A. Estate bottling is the fact that at the winery the wine is
5 taken from a barrel into bottles. This is an explanation that
6 I can maybe do a bit longer, because during centuries the wine
7 in Burgundy was made by the wine makers and sold in barrels to
8 a negociant. A negociant is a company which is that of a wine
9 merchant that used to take the barrels, age the wine during one
10 or two years or more, and then bottle it and put that on the
11 mark. This is a system of marketing the wine in Burgundy
12 during centuries until the early '70s, I would say, where the
13 winemakers then started estate bottling. So they had a machine
14 in their winery to feel the bottles and put the cork on. So
15 this is what we call estate bottling.

16 Q. Do you know when Domaine Ponsot began estate bottling?

17 A. So domain Ponsot was one of the ten first wineries to
18 estate bottling before the Second World War. It was in our
19 case in 1932.

20 Q. Could you tell us generally the kinds of wines that Domaine
21 Ponsot makes today?

22 A. Yes. Before I say what we are producing, I think it's time
23 to help the jury to understand the classification of Burgundy.

24 Q. If you could explain the classification system first and
25 then tell us what wines you make, that would be very helpful.

Dccdkurl

Ponsot - direct

1 Thank you.

2 A. So the classification in Burgundy is on four levels. You
3 have the first level, I would say good wines but not the top
4 wines, which represent nearly 50 percent of the production of
5 Burgundy, and the name of these wines are Bourgogne.

6 Q. Could you spell that, as well?

7 A. Which is Burgundy in French. Bourgognon is
8 B-o-u-r-g-o-g-n-o-n.

9 So the classification starts with the Bourgogne first
10 level. Then you have an appellation Village, the level
11 Village, which represents the name of other villages of
12 Burgundy; for example, Pommard, Morey St. Denis.

13 And then you have an upper level, which is Premier
14 Cru.

15 And then you have the creme de la creme, which are
16 named Lafitte Grand Cru. And the Grand Cru represents only
17 2 percent of the surfeit of production of Burgundy, 1 percent
18 of the production. There is a law that makes that we cannot
19 produce too much in the Grand Cru, too much wine; we have a
20 limit. So this is why it is 2 percent of the surfeit but only
21 1 percent of the production.

22 So this is the classification.

23 And Domaine Ponsot is owning 22 appellations, so
24 different kind of wines, including some in each category but we
25 have specialty 12 Grand Cru that represent nearly 80 percent of

Dccdkurl

Ponsot - direct

1 our production.

2 Q. So most of the wine that Domaine Ponsot makes is the
3 top-level Grand Cru wine?

4 A. Yes. This is it.

5 Q. And, historically, has Domaine Ponsot also made Grand Cru
6 wines?

7 A. Domaine Ponsot has made Grand Cru wines from the very
8 beginning, except that during several years after the
9 foundation, we had no classification in Burgundy. The
10 classification started in 1935 and '36. I mean, the legal
11 classification of the four levels. But we already had the
12 parcels, the piece of ground that are named the Grand Cru.

13 THE COURT: Who started the four levels?

14 THE WITNESS: So my grandfather was a doctor in law.
15 And when he came back in 1922, he had the idea that they must
16 classify the wines because many people were not having the
17 right name on the right wine and so on. So to make it really
18 legal, he was the first to start writing notes about that and
19 he was the first to establish these laws, the rules and the
20 laws, and the laws have been voted in 1935 after the work of my
21 grandfather plus other winemakers together.

22 THE COURT: So he established them but they've
23 actually been enacted into law in France. These are legal --

24 THE WITNESS: Yes. Exactly.

25 MR. HERNANDEZ: If we could show to the witness

Dccdkurl

Ponsot - direct

1 Government Exhibit 19-3.

2 Q. Mr. Ponsot, if you look at your screen, could you tell me
3 if you see anything on the screen?

4 A. Yes, I do.

5 Q. Could you recognize what it is?

6 A. It is a map of the appellation of my Village.

7 Q. OK. Would it be helpful to you to explain a little bit
8 more about how wines classifieds in Burgundy if we focused in
9 on this map so you could explain it to the jury?

10 A. Yeah, I can explain especially what is an appellation.

11 THE COURT: Could you hold on for a second.

12 And could you just approach for a minute?

13 (Continued on next page)

Dccdkurl

Ponsot - direct

1 (At the sidebar)

2 THE COURT: So I just thought of something that could
3 be helpful and I don't know if it is too late to do. Could you
4 have like a glossary, maybe handwritten even, so that the court
5 reporter would know all of these names and terms so he wouldn't
6 have to interrupt?

7 MR. HERNANDEZ: A lot of these are on our list of
8 names and places, and we have been supplementing it along. We
9 will make an extra effort to have even more of them prepared.

10 THE COURT: If you could cull that even handwritten
11 and so we would have it for the court reporter.

12 MR. HERNANDEZ: Sure.

13 (Continued on next page)

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Ponsot - direct

1 (In open court)

2 MR. HERNANDEZ: Your Honor, could we publish 19-3 to
3 the jury?

4 THE COURT: Yes.

5 BY MR. HERNANDEZ:

6 Q. Mr. Ponsot, are we looking here at a map of your village,
7 Morey St. Denis?

8 A. Yes. It is exactly that.

9 MR. HERNANDEZ: And I am going to ask Mr. Platt if he
10 could just focus in on the colored portion of the map so we can
11 get as close as we can there.

12 Q. All right. Mr. Ponsot, can you just tell us what that is
13 we are looking at here in this map?

14 A. In this map you can see the different colors. But more
15 than colors, you can see the different names located inside a
16 grove. For example, along the upper corner on the right, you
17 see an appellation named Monts Luisants. So this is what we
18 call an appellation. This is a ground limited on which you can
19 produce only this wine, whose name is Monts Luisants. And
20 having said that, you see many different kind of names which
21 represent many different kind of appellations.

22 Then regarding the colors, you have the bottom of the
23 page lightly pink colors, this is what I named as a village
24 wine. So the second level of appellation.

25 If you go a little higher, you see the light red, and

Dccdkurl

Ponsot - direct

1 this is we call Premier Cru.

2 And then in darker red you have the Concord. And the
3 Concord in Morey St. Denis are the number 5.

4 Q. OK. Are two of them Clos de la Roche and Clos St. Denis?

5 A. Yeah. Both of these appellations are produced by Domaine
6 Ponsot.

7 Q. Thank you, Mr. Ponsot.

8 Now, is there anything that you consider to be special
9 about the wines of Burgundy?

10 A. The wines of Burgundy are among the most well known on the
11 planet, along with the Bordeaux wines. So, yeah, these are
12 wines, especially the Grand Cru, which are reaching a very high
13 price due to the demand because the production is very, very
14 small.

15 Q. Where are Domaine Ponsot wines sold today?

16 A. Domaine Ponsot wines are sold into 48 countries. Only
17 8 percent in France, 8 percent in U.S.A. I think 8 percent is
18 the maximum I sell to one country, but some other countries get
19 only 1 percent.

20 Q. So we are lucky. Do you do anything to promote Domaine
21 Ponsot wines?

22 A. Well, I think I don't really need to promote Domaine Ponsot
23 wines. The demand is much higher than what we can produce.

24 And I asked my assistant to register all the requests of
25 bottles in the last two years, and we counted approximately 45

Dccdkurl

Ponsot - direct

1 clients potentially per bottle. So I try, instead of
2 promoting, to keep hidden.

3 Q. Now, the Domaine itself in Burgundy, do you keep a stock of
4 older wines and even older wine labels there?

5 A. Yeah. We have a good library of old wine labels from the
6 time my grandfather did the wines. And we have also some old
7 bottles, unfortunately, not as much as I would, but my
8 ancestors and my father were good drinkers so they didn't leave
9 me a lot of wine. And so we have a collection of something
10 like 1,000 bottles only of older wines.

11 MR. HERNANDEZ: And if we could show the witness, just
12 the witness, two exhibits, 36-10 and 36-11.

13 Q. Mr. Ponsot, these will appear on your screen.

14 A. Yes.

15 Q. The first is 36-10. Just take a moment to look at that.

16 And then if we could show 36-11.

17 Do you recognize those two exhibits, Mr. Ponsot?

18 A. Yes. Those are labels used by my grandfather.

19 Q. And are these the labels that you provided to the FBI in
20 connection with this case?

21 A. I did.

22 MR. HERNANDEZ: We offer 36-10 and 36-11.

23 THE COURT: I will allow it.

24 (Government's Exhibits 36-10 and 36-11 received in
25 evidence)

Dccdkurl

Ponsot - direct

1 Q. Can we see 36-10 first.

2 We have on the screen 36-10. Could you just tell us a
3 little bit about this label?

4 A. This label was the type of label used by my grandfather in
5 the '30s, and --

6 THE COURT: Maybe you could walk us through each
7 section of the label and explain "Appellation Controlee," for
8 example.

9 A. Yes. What you see as Appellation Controlee on the upper
10 corner left, it means that the wine is under the new law. The
11 law started in 1936 in Morey St. Denis, in my Village. So this
12 was the second year that you could write on the label this. It
13 means that you have to produce the wine a certain way, to farm
14 the vines a certain way. The rules are quite strict. So this
15 is what we call Appellation Controlee that gave the
16 classification I mentioned earlier.

17 What is remarkable on this label is that at the time
18 my grandfather was making wine, they had no television. So at
19 night he would take all the labels and sign them by hand. So
20 you have the signature of my grandfather on the corner.

21 Q. Is that the lower left corner?

22 A. The left corner.

23 Q. And this is a Grand Cru wine from the Clos de la Roche
24 Appellation or Vineyard, is that correct?

25 A. Exactly.

Dccdkurl

Ponsot - direct

1 Q. From 1938?

2 A. This is the label of this wine, Clos de la Roche 1938.

3 You can notice that the character of Clos de la Roche,
4 the place, is very much from the time, in the -- it was a time
5 of building like the Chrysler Building, and they wrote a lot of
6 things with these kind of letters.

7 THE COURT: So explain just all the other writing on
8 there, too.

9 THE WITNESS: Yes. What is written in green across
10 the label "Mise Du Domaine" means estate bottling. It is a
11 word in French to say estate bottling.

12 And then down on the right corner down, "H." is the
13 initial of my grandfather, Ponsot. "Proprietaire" means owner
14 in Morey St. Denis.

15 So below that you have "par Gevrey-Chambertin," the
16 next village.

17 Q. And that last hyphenated word, that is another village?

18 A. It is the next village from Morey St. Denis, and this is
19 where the Post Office was.

20 Q. OK.

21 THE COURT: There is a date on there. If you could
22 explain what the date means on the label?

23 THE WITNESS: 1938 is the date of the vintage. So on
24 the wines produced in 1938, two or three years later, I don't
25 know when my grandfather did the estate bottling, but they

Dccdkurl

Ponsot - direct

1 could put this label on the bottle.

2 THE COURT: So it's the vintage, as opposed to when
3 the wine was bottled?

4 THE WITNESS: No. When the wine was produced.

5 THE COURT: Produced?

6 THE WITNESS: Produced in 1938 and bottled we don't
7 know, probably 1940.

8 THE COURT: And where was it in between?

9 THE WITNESS: In the barrel in the cellar down in our
10 house.

11 BY MR. HERNANDEZ:

12 Q. Then if we could look at 36-11.

13 This label looks a little bit different. Could you
14 tell us just what some of the differences are here?

15 A. What is a little different, it was the second kind of label
16 my grandfather made. And this was used during the '40s and
17 '50s at the end of the '50s.

18 And what you see, which is similar, is that you still
19 have the name of the appellation "Clos de la Roche" right in
20 the middle. The word "Appellation Controlee" that on the
21 previous label was in the corner is now just below the name of
22 the appellation. There is still the name of my grandfather and
23 the address on the corner down right.

24 On the corner up right, you still have the word Mise
25 Du Domaine -- that means estate bottling -- plus the vintage.

Dccdkurl

Ponsot - direct

1 And on the left upper corner, you have a new
2 designation, which is "Grand Vin de Bourgogne." This is not
3 registered in any law. This just means that my grandfather was
4 thinking that it was a great wine already.

5 Q. This is good stuff?

6 A. Good stuff. That's it.

7 So it's just a notice to the customer that probably
8 this is a good wine. OK? Maybe it was pretentious but I think
9 it was a good wine.

10 Q. OK.

11 THE COURT: There are a few more.

12 Q. Right above "Clos de la Roche."

13 A. Right above Clos de la Roche -- and this is the first time
14 my grandfather did it -- he mentioned how many bottles he has
15 made totally from this wine. So you can see in French it means
16 we have made 2,000 bottles of this wine. This is the
17 translation of what is written on top of the appellation. So
18 2,000 bottles of 1949 Clos de la Roche have been produced, not
19 one more. And we have still in our cellar in the library 7,
20 and this is what is left.

21 Q. I want to ask you some questions about the library or the
22 cellar that you referenced.

23 MR. HERNANDEZ: And if we could show just to
24 Mr. Ponsot three exhibits, 36-7, 36-8 and 36-9.

25 Q. Mr. Ponsot, that will come up on your screen. Just take a

Dccdkurl

Ponsot - direct

1 look at each exhibit, and at the end I am going to ask you if
2 you recognize these exhibits.

3 (Pause)

4 Mr. Ponsot, do you recognize these three exhibits?

5 A. I do recognize them.

6 Q. How do you recognize them?

7 A. These are pictures I've taken and sent to you of our
8 library, the two first, and the last one is a bottle -- old
9 bottle that we keep in the library.

10 MR. HERNANDEZ: The government offers 36-7, 36-8 and
11 36-9.

12 THE COURT: I will allow that.

13 (Government's Exhibits 36-7, 36-8 and 36-9 received in
14 evidence)

15 MR. HERNANDEZ: Can we begin with 36-7, and publish
16 this to the jury, please.

17 Q. Mr. Ponsot, what are we looking at in 36-7?

18 A. We are looking at a row in our library of bottles. This is
19 the row where we keep the oldest bottles we have in our cellar.

20 Q. This is a photograph you took of your cellar in Burgundy?

21 A. I did, yes.

22 Q. And can we look at 36-8.

23 What is in 36-8?

24 A. This is a closer view of the left side of this row in our
25 cellar, where we keep some very old bottles. We keep them in

Dccdkurl

Ponsot - direct

1 boxes with no label on it. In the box, every bottle has been
2 reopened in 1985, refilled with the same wine, recorked with a
3 new cork, and we put wax on it at that time. So in 1985,
4 during the winter, we did that for all the wines which were
5 older than 1970.

6 Q. You personally participated in that?

7 A. I did myself all of these recorkings in the very strange
8 way we have. In order to avoid the wine being affected by the
9 oxygen, we did it in a temperature of 2 Celsius, which means
10 30 -- I don't know, 39 Fahrenheit. So very cold.

11 (Continued on next page)

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DCCBKURT2

Ponsot - direct

1 BY MR. HERNANDEZ:

1 Q. And why do you do that that way?

2 A. In order to avoid the oxidation of the wine. The wine is
3 an element which is natural, very fragile, and oxygen is the
4 enemy of the wine. It's the enemy except when you drink it.
5 When you drink the wine, you need oxygen to excite flavor and
6 aroma. But when you keep the wine in the barrel or in the
7 bottle, you avoid everything that comes from outside.

8 We need a little of oxygen through a cork, which is
9 porous, to make the wine age carefully, but this is very
10 limited.

11 MR. HERNANDEZ: And can we look at 36-9 --

12 THE COURT: So the cork is designed to allow some
13 oxygen into the wine?

14 THE WITNESS: Yeah. The natural corks are porous.
15 And we found the system a long time ago to close the bottles,
16 which is not the best way because the corks are natural and you
17 don't know in advance which kind of porosity you will have.
18 And when you take a cork from the same tree, because the corks
19 are made from the tree, you can have two corks which are
20 totally different in porosity. And you can bottle two wines,
21 side by side, keep the two bottles in your cellar during 30
22 years, and the one will be fantastic because the cork made this
23 work of just letting a little air getting in, and the next one
24 will be totally destroyed because the cork is too porous and
25 let too much oxygen go in.

DCCBKURT2

Ponsot - direct

1 So this is something quite important for the future of
2 the explanations.

3 BY MR. HERNANDEZ:

4 Q. And you mentioned that in 1985 you rewaxed some of the-- or
5 you waxed, rather, some of the older bottles.

6 MR. HERNANDEZ: So if we can look at 36-9.

7 Q. What does 36-9 show?

8 A. 36-9 is a bottle of 1959 Clos de la Roche, still the same
9 operation, that we recorked and waxed in 1985. And you can
10 notice that the wax is red. This has been taken last year.
11 The photograph has been taken last year, so it's almost 30
12 years since we did the recork and the wax. So this is still
13 very neat.

14 Q. The bottles, when they leave the domaine when they're to be
15 sold, do they always have labels on them?

16 A. Yes. We never sell a bottle with no label. It's nonsense.
17 We put a label on each bottle that is the leaving the Domaine
18 Ponsot.

19 THE COURT: When you put the wax over the cork, does
20 that still allow oxygen to come into the bottle?

21 THE WITNESS: Yeah, the wax is also porous, but less
22 than a cork. So when we have very old wines, we don't want too
23 much oxygen goes in because it has already been exposed to
24 oxygen through the original cork during the wine, and so we try
25 to limit the entrance of oxygen into the wine by waxing them.

DCCBKURT2

Ponsot - direct

1 We never wax wines that we release now. But if we
2 have the chance, if my sons or grandsons have the chance to
3 find bottles that I made myself in 40 years or something, they
4 could do what we did at that time and rewax it to protect
5 them.

6 Q. Now, prior to 1985, did Domaine Ponsot ever produce any
7 wines where the bottle was sealed with wax?

8 A. No. My grandfather, my father, always used capsules and no
9 wax.

10 Q. So 1985 was the first and only time wax was used?

11 A. Exactly.

12 Q. The wax looks like it does in 36-9?

13 A. It looks exactly what we used until last year we changed
14 the cork.

15 THE COURT: What's the difference between wax and a
16 capsule?

17 THE WITNESS: Well, the capsule is very easy to use.
18 Wax takes a lot of time. And wax is very fragile. When you
19 have to open a bottle, it's not the best way to do because you
20 have to break the wax. The wax is becoming very hard. And
21 when you break it, some elements of the wax can get into the
22 bottle afterwards if you don't clean it correctly.

23 It's a way to protect the wine. It's not the best way
24 to serve the wine, I would say. So the capsule is really an
25 easy way and it's also porous. It's made from-- I don't know

DCCBKURT2

Ponsot - direct

1 the word in English, but it's a metal which is soft. But I
2 don't know the word in English. It's not lead, but it's kind
3 of --

4 THE COURT: It's porous?

5 THE WITNESS: It's porous as well.

6 BY MR. HERNANDEZ:

7 Q. I want to show you a few exhibits that have already been
8 admitted into evidence. It's Government Exhibit 1-140,
9 Government Exhibit 1-181 and Government Exhibit 1-204.

10 And the first two exhibits, 1-140 and 1-181, say that
11 they are labels from Domaine Ponsot and then 1-204 just has
12 vintages on them.

13 I'd like you to take a look at these two exhibits,
14 please. These three exhibits.

15 Mr. Ponsot, do you know whether those three exhibits
16 contain authentic Domaine Ponsot labels?

17 A. They don't.

18 Q. And how do you know that?

19 A. Just by looking at them. We know what kind of flavors we
20 produced and we never produced these kind of flavors. Never,
21 ever.

22 Q. Which exhibit are you referring to?

23 A. 181.

24 Q. Okay.

25 A. So as you saw previously, the kind of label used in 1945

DCCBKURT2

Ponsot - direct

1 were the-- '49, I'm sorry, were the ones the same as we used in
2 1947. So these 45 and '47 cannot exist.

3 MR. HERNANDEZ: Mr. Platt, can you have 36-11 up on
4 the screen so the jury can see this?

5 Q. Up on your screen, Mr. Ponsot, that's the 1949 label you're
6 referring to?

7 A. Exactly, '49.

8 Q. And could you --

9 THE COURT: Excuse me. Just so I'm clear, this one is
10 a label that your family produced. Correct?

11 THE WITNESS: On the screen?

12 THE COURT: Yes.

13 THE WITNESS: Yes.

14 THE COURT: The one on the screen.

15 THE WITNESS: Yes, exactly.

16 Q. The one on the screen, this is a copy of the label you got
17 from the Domaine. Correct?

18 A. Yes. I gave you a copy of this earlier.

19 Q. And if you could just hold up 1-181 so that the jury can
20 see.

21 You're saying those are not authentic labels?

22 A. These are totally different.

23 And then on Exhibit 1-140, these are not authentic
24 Domaine Ponsot labels, but very close. This is a very good
25 copy, believe me.

DCCBKURT2

Ponsot - direct

1 THE COURT: But you said it's not authentic?

2 THE WITNESS: No, it's not authentic for several
3 reasons.

4 THE COURT: Are you going to get into how it's not?

5 MR. HERNANDEZ: I'm going to ask him right now.

6 Q. If you could just tell us why these labels you think are
7 not authentic.

8 THE COURT: Start with the first one, the first batch.

9 Q. You can start with the first batch. This is Government
10 Exhibit --

11 A. This one?

12 Q. Yes. We'll start with Government Exhibit 1-181. Tell us
13 why you think those are not authentic.

14 A. Because they are not looking like what you see on the
15 screen, the 1949 Clos de la Roche. In the '40s we used only
16 the type of labels that you can see on the screen and not this
17 kind of yellowish color and not really looking alike, this one.
18 We never used that.

19 Q. How about the back of the label? Is there anything about
20 the back of that label that is important to you?

21 A. Yeah, the back of the label also is really yellow and--
22 well, just by the memory of the family, we never used that. My
23 father is still alive and I asked him a lot of things about
24 that --

25 MR. MOONEY: Objection, hearsay.

DCCBKURT2

Ponsot - direct

1 THE COURT: Overruled. Keep going.

2 A. My father gave me a lot of information of what he has done
3 himself. And I am myself very interested into the history of
4 the family. And I had contacts with my grandfather before he
5 passed. So I know a lot myself, but my father knows more. And
6 for sure these cannot exist.

7 THE COURT: So can you tell that just from looking at
8 it casually? It's obvious to you?

9 THE WITNESS: It's obvious. It's totally obvious.

10 Q. Do you know how labels have historically been applied to
11 the bottles at Domaine Ponsot? Do you need something to make
12 the labels stick?

13 A. Yeah, we use the same-- the same kind of glue that
14 everybody used to put paper on the wall. Exactly the same.
15 And we would by hand put that with a -- pencil, you say? I
16 don't know the word in English.

17 Q. That's okay.

18 A. So stick the label and we do by hand.

19 Q. Do you know what a self-adhesive label is?

20 A. Self-adhesive?

21 Q. It's one that comes already sticky on the back.

22 A. Yeah.

23 Q. Have you seen those before?

24 A. Yeah.

25 Q. Has Domaine Ponsot ever used a self-adhesive label?

DCCBKURT2

Ponsot - direct

1 A. We did start in 1989 with these self-adhesive labels.

2 Q. And before then?

3 A. Never.

4 Q. Okay. Could you then take the next exhibit and tell us why
5 you don't think those are authentic Domaine Ponsot labels?

6 A. Well these, as I said, are looking like our real labels.

7 Q. Could you just tell us the number before you explain why?

8 A. Exhibit 1-140.

9 Q. Thank you.

10 A. These types of labels was used mainly in the early-- the
11 late '50s and the '60s and early '70s. This type. Square,
12 rectangle. And on these my father would put his name. Instead
13 of saying only "Domaine Ponsot," my father would add his own
14 name with his initials. And so we really cannot find these
15 kind of labels authentically at Domaine Ponsot.

16 Q. And, Mr. Ponsot, has Domaine Ponsot ever given permission
17 to someone outside the domaine to make Domaine Ponsot labels
18 and apply them to bottles?

19 A. Never.

20 Q. And then the last exhibit, can you tell us the number and
21 tell us whether you think that's authentic or not?

22 A. Well, these are --

23 Q. Could you tell us the number before you begin?

24 A. Oh, yeah. Exhibit 1-204. This is what is normally applied
25 on top of the neck of the bottle to give the indication of the

DCCBKURT2

Ponsot - direct

1 vintage. We have used this kind of small labels on top of
2 these on a bottle, but this-- this is looking alike our
3 little -- how you say? Crest. But we never used that from a
4 full page. We have been delivered directly from the-- from the
5 printer as a single one. But I-- well, this is looking alike.
6 I can't-- I can't say-- I can say this is not our genuine
7 stuff, but it's really looking alike. It's a copy, but very
8 well done.

9 Q. Thank you, Mr. Ponsot.

10 A. It's obvious for me.

11 Q. Now I'm going to ask you about a different subject. I want
12 to direct your attention to April of 2008.

13 Now, did you become aware of a wine auction here in
14 Manhattan held by Acker Merrall & Condit in April of 2008?

15 A. Yes, I did.

16 Q. How did you become aware of it?

17 A. I got a message by e-mail from a friend of mine whose name
18 is Doug Barzelay asking, very simply, "Since when are you
19 producing the Clos Saint-Denis?" The Clos Saint-Denis is one
20 of the two Grand Cru that we produced in our village. And I
21 don't know why he was asking these questions, so I didn't
22 answer by an answer. I answered by a question: "Why are you
23 asking?"

24 And by return, he sent me an e-mail saying there is an
25 auction in two days in Manhattan in which they will sell 1945,

DCCBKURT2

Ponsot - direct

1 '49 -- I don't remember, but '40-- '40s, '50s, '60s and '70s of
2 the Clos Saint-Denis. The Clos Saint-Denis is an appellation
3 that we started in 1982.

4 I remember I said previously that I came back to the
5 winery in 1981. It was just after the harvest in October. The
6 reason was that my father had the opportunity to add to the
7 portfolio of the winery some new appellations that the rich
8 person from Paris just bought. And he wanted that the family
9 Ponsot would work on the vineyards, make the wine, age the
10 wine, and give the bottles-- a part of the bottles to himself.
11 We call that a shared crop system.

12 THE COURT: Shared crop?

13 THE WITNESS: Shared crop.

14 A. So we shared at the end of my work, of my father's work,
15 two-thirds of the bottles for us and one-third for the owner.
16 This is the system.

17 So we had this opportunity. And my father was saying
18 it's too much. I don't want to take it. And I said, Okay, I
19 come back to the winery. I was having my own life outside.

20 THE COURT: Meaning it's too much work?

21 THE WITNESS: Too much work. Yeah, too much work.

22 A. So this is when we started the Clos Saint-Denis. I came
23 back in late '81 and '82, were the first vintage we made of the
24 Clos Saint-Denis. So there's no reason that we can find older
25 bottles of the Clos Saint-Denis with the Ponsot name on it.

DCCBKURT2

Ponsot - direct

1 Q. What did you do after Mr. Barzelay told you about these
2 wines being auctioned that Domaine Ponsot never made?

3 A. Well, it was a shock for me when I had the e-mail by return
4 knowing that someone would sell these old bottles. I was
5 sitting at my desk, fortunately, otherwise I would fall down.
6 The thing is that I immediately called Doug Barzelay to ask him
7 to take pictures if possible, send me the catalog with an
8 e-mail as a pdf file, which he did. And I saw not only Ponsot
9 wines, but all the catalog. And so finally I got some pictures
10 of some wines. So only watching the pictures I knew that
11 everything was not authentic.

12 So I had also to ask Doug Barzelay who I should
13 contact at the auction house to try to withdraw the wines from
14 the auctions. So he gave me the name of John Kapon. I didn't
15 know this person before that.

16 And so I gave a phone call to John Kapon and asking
17 him to do that, to withdraw the wines. I said who I am and why
18 I said that. And so after two phone calls, I heard on the
19 phone a yes, meaning he would withdraw the wines from the
20 auction, but it was not a yes I really liked. I was not sure
21 that he would do that. It was maybe a yes to end the
22 conversation.

23 So I decided to go. I had planned to go to USA a bit
24 later. I changed my plans and the next day I took a plane to
25 come to the auction. So the day of the auction I was in the

DCCBKURT2

Ponsot - direct

1 room ten minutes after it started.

2 THE COURT: In New York?

3 THE WITNESS: In New York, in Manhattan. I flew the
4 same day. The plane landed at four and I was at six, a little
5 after six, in the room where they started the auction.

6 Q. And do you know whether they auctioned the bottles or not?

7 A. Well, they were starting following the catalog with old
8 champagnes and the Ponsot wines were a bit later. But the
9 wines were there in the room.

10 THE COURT: On the table?

11 THE WITNESS: Not on the table. Someplace.

12 THE COURT: Okay.

13 A. I didn't see from the place I was, but some people -- I had
14 many friends in the room that wanted to buy old Ponsots,
15 because it's very rare to find so many bottles of Domaine
16 Ponsot in the same place. And so many people came for this
17 purpose and I know a lot of them. I am-- you know, when you
18 sell wines, it's not the same thing like when you sell tables
19 or a car. You become friends with the people which are
20 drinking the wine.

21 So we had the good relation with a lot of people in
22 the room, so they told me that some of them saw the bottles.

23 So I didn't know Kapon. Kapon didn't know me. At
24 that time you can't believe it, but I had very long hair and I
25 was very easy to recognize. And some fellows went to Kapon and

DCCBKURT2

Ponsot - direct

1 say that I'm here.

2 So when is turn of the lots of Domaine Ponsot wines
3 arrived, John Kapon said, "At the request of the winery, with
4 the accordance of the owner, we will withdraw the wines from
5 the auction."

6 So at that minute a lot of people were mumbling and
7 not very happy because some of them came from outside town to
8 buy that. And so they went on selling the rest of the wines.
9 And at the end of the auction I had for sure, as you can
10 imagine, many questions.

11 Q. Now, Mr. Ponsot, for the jury in this trial we've already
12 admitted the bottles, some of the bottles from that auction and
13 they're at the table.

14 MR. HERNANDEZ: Your Honor, I'd ask the witness, if he
15 could, to step down so he could explain why those wines are not
16 authentic.

17 THE COURT: Sure.

18 Q. Mr. Ponsot, if you could step down.

19 So, Mr. Ponsot, there are a number of bottles here on
20 the table. And I'm going to first ask you about the bottles
21 that have numbers that start with 8 and then dash, because
22 those are the bottles that have been admitted in this trial as
23 from the April 2008 Acker auction.

24 So I'm going to hand you a bottle and tell you the
25 exhibit. And if you could tell the jury why a particular

DCCBKURT2

Ponsot - direct

1 bottle, if you believed to be authentic or inauthentic. And
2 we'll begin here with this first row of bottles starting with
3 8-22. And if you could just hold the bottle up so the jury
4 could see it and explain why you think the bottle is authentic
5 or not.

6 A. Well, for this one it's very obvious. It's a Clos
7 Saint-Denis and it says '45. So 1982 is the first. So this
8 cannot exist. It's obvious.

9 On top of it, we never sold any wine to Nicolas,
10 which is a French wine merchant that used to sell a lot of
11 wines all over the planet. And this wax has never been applied
12 by us. But we don't need to know about this because this,
13 together, cannot exist.

14 Q. Because a Clos Saint-Denis from 1945 can't exist.

15 A. Right.

16 Q. But with respect to the wax, because it's a point you may
17 want to make later, the only time the domaine is waxed you said
18 was in 1985?

19 A. 1985 we started using wax.

20 MR. HERNANDEZ: And if Mr. Platt could just pull up on
21 the screen that photograph of the wax that you applied, which
22 is 36-9.

23 Q. And if you could just hold the bottle up so the jury can
24 see the comparison in the color.

25 Is there any difference in the color? Mr. Ponsot, is

DCCBKURT2

Ponsot - direct

1 there any difference in the color?

2 A. The wax can change a little color with the time, but 1985
3 until last year, when I took this picture -- or this year, I
4 don't remember exactly -- the color stayed quite stable. It's
5 still red. This has been applied with a different color than
6 the original. Looking like old, but I think new.

7 Q. Very good.

8 And then I'll ask you then to look at Government
9 Exhibit 8-24. If you could hold that up for the jury as well
10 and tell whether you think that is an authentic bottle.

11 A. Well, it's, again, a Clos Saint-Denis, 1959. So, again,
12 obviously cannot exist. On top of it, this capsule is saying
13 selected by Alexis Lichine.

14 Q. Can you spell that?

15 A. Alexis Lichine. A-l-e-x-i-s L-i-c-h-i-n, and normally
16 there is an "e." This guy was known for importing wines, but
17 he has never been our importer. Never. And on top of it, it's
18 recommended by someone I don't know at all, importer and wine
19 merchant. No idea who these people are. Never related to our
20 winery.

21 Q. And then I'll show you 8-25.

22 A. Clos Saint-Denis, 1962. Again, no way. And you see the
23 capsule has been taken away. When you drink a bottle, you take
24 the capsule away from the top to open it. Why would you open
25 the capsule down to check if the cork is printed? And if it's

DCCBKURT2

Ponsot - direct

1 not printed, then you can take this bottle for doing something
2 else with. It's a trick.

3 Q. Okay. Thank you.

4 So those are the Clos Saint-Denis wines.

5 Now I'm going to ask you about the Clos de la Roche
6 wines. I'm going to hand you Exhibit 8-27. What can you tell
7 us about whether you think that bottle is from Domaine Ponsot
8 or not?

9 A. It's not from Domaine Ponsot exactly for the same reason as
10 the Clos Saint-Denis. You see Clos de la Roche and you see
11 1929. And I told previously that we started estate bottling
12 with a vintage '32. So this cannot exist.

13 Q. And is there anything else about that bottle that tells you
14 that it's not an authentic wine from Domaine Ponsot?

15 A. This is the main thing. It can say "appellation
16 controlee." It's not controlled.

17 Q. And the wax.

18 A. The wax, no. No way. It's obvious for me. It's already
19 '29 and a Clos de la Roche. It cannot match.

20 Q. And then Government Exhibit 8-28, can you tell us what that
21 is and tell us whether you think it's authentic?

22 A. So this is not authentic. It can be existing, it's 1937
23 Clos de la Roche, but remember you have seen some old labels of
24 Domaine Ponsot including the 1938 which was exactly the same
25 style as the 1937. So it's not looking alike the original

DCCBKURT2

Ponsot - direct

1 label.

2 MR. HERNANDEZ: Mr. Platt, could you pull up 36-10,
3 which has already been admitted?

4 Q. And we have on the screen 36-10, the label from 1938 that
5 was previously shown.

6 So you're saying if this was to be an authentic
7 bottle, it would have to be the label that's 36-10 on the
8 bottle?

9 A. Exactly, except the vintage would change from 1938 to 1937.
10 But this was the same kind of labels. On top of it, we never
11 used any gold capsule like this. Which actually has been cut,
12 too.

13 Q. Okay. Thank you.

14 And I'll show you Government Exhibit 8-29. Can you
15 tell us about that bottle?

16 A. Yeah. Again, it's a Clos de la Roche, 1945. We produced
17 1945 Clos de la Roche. You have seen the labels of the 1949
18 and the 1945 must look alike the 1949 and not like this one.
19 This was the label used, as I said, in the late '50s and the
20 '60s and early '70s with this little crest on top of it.

21 Q. Okay. Then I'll show you Government Exhibit 8-33.

22 A. So 1959 Clos de la Roche. This was the kind of label we
23 used. This was the kind of vintage we used. But this is not
24 the wax we used. This is not made by-- sold by Nicolas.
25 Never. And this is a copy. It's very easy for me to see that

DCCBKURT2

Ponsot - direct

1 it is a copy that has been dirt to make it authentic and old.
2 Because at that time it was written the name of my father on it
3 on top of the "Domaine Ponsot." And the paper is different.
4 It's not the same kind of paper we used.

5 It's very close. It's a good copy, but it's not
6 authentic.

7 Q. And then I'll show you 8-36.

8 A. 1966. So this also can be the original label, well done.
9 This can be used as well. But what about this capsule? Really
10 not the one we used at that time. We had a plain red, not a
11 flashy one. And on top of it, all these names of importers, we
12 don't know at all. We never used Pearson's, one importer in
13 Baltimore. We never used Walter Eisenberg as a taster. We
14 have the same importer in USA since the vintage 1934.

15 And I saw one of the-- one of the stickers here say
16 Frank Schoonmaker.

17 Q. And you're looking at 8-25.

18 A. Frank Schoonmaker was our first importer. And it cannot
19 match with '62 because he retired before that, but during a
20 wine we had this guy. So on some of the old labels we can have
21 a Frank Schoonmaker sticker on it, not on this one.

22 Then, further, Frank Schoonmaker was relative with
23 uncle of someone whose name was Lehman, and Lehman started to
24 take over from Schoonmaker. And Lehman had also a cousin whose
25 name was Robert Haas. And they became our importer, one after

DCCBKURT2

Ponsot - direct

1 the other. It's not the same company, but it's the same
2 family, so to say. And I'm still having the same wine importer
3 in the USA whose name now is Vineyard Frank and they started
4 with this particular name in 1973.

5 Q. Okay. And those are the end of my questions about the 8
6 series exhibits, so these are all from that April 2008 auction.

7 While I have you up here, I'm going to ask you about
8 the bottles that start with the number 9 dash. These are not
9 from that auction, but these purport to be Domaine Ponsot
10 wines. And I think what I can do here is show to you that
11 these are three bottles, standard size bottles, that are
12 Government Exhibits 9-6, 9-5, and 9-4. And they are,
13 respectively, Clos Saint-Denis wines from Domaine Ponsot from
14 1971, 1962 and 1959.

15 Now, just to save time, is there anything about these
16 three bottles together that you can tell us about their
17 authenticity?

18 A. Well, again, it's very obvious. The three vintages are
19 anterior to the date that we started to produce, 1982. So no
20 need to go further on the capsules, which are not genuine, and
21 the sticker and importer. It just cannot exist.

22 Q. Okay. Then we have 9-3, 9-2 and 9-1. These are larger
23 bottles. These are magnums. Is that right?

24 A. Yes.

25 Q. These are also Clos Saint-Denis from 1971, 1962 and 1959.

DCCBKURT2

Ponsot - direct

1 Same result?

2 A. Exact. Exactly the same reason why. I can attest that
3 this is not authentic.

4 MR. HERNANDEZ: Okay. Thank you. May the witness
5 return?

6 THE COURT: Sure.

7 Q. Can you take a seat again? Thank you.

8 So before you got down to look at the bottles,
9 Mr. Ponsot, we were talking about that April 2008 auction where
10 your wines were withdrawn from the Acker Merrall auction.

11 Did you ever learn who consigned or tried to sell
12 those lines through Acker Merrall?

13 A. So after the auction, I had many people coming to talk to
14 me and I learned at that time that the owner of the bottles was
15 Mr. Rudy Kurniawan.

16 Q. And did you know who Rudy Kurniawan was at the time?

17 A. I don't know, but I didn't meet Rudy Kurniawan that
18 evening.

19 Q. Did you meet him ever?

20 A. Doug Barzelay, that I mentioned earlier, the guy who gave
21 me the advice of it, was there.

22 THE COURT: At the auction?

23 THE WITNESS: At the auction. He was at the auction.

24 A. And I ask him to try to find out if I can meet the owner.
25 And he said to me, okay, we organize a lunch tomorrow with

DCCBKURT2

Ponsot - direct

1 Mr. Rudy Kurniawan, Mr. John Kapon, myself and Mr. Doug
2 Barzelay.

3 So the next day we're at lunch at Manhattan, the four
4 of us, at the restaurant Jean-Georges and I met for the first
5 time Mr. Rudy Kurniawan at that moment, having been introduced
6 to him, and then we sat for lunch. After the usual salutation,
7 I immediately started to ask the question that I had in mind
8 for several days: "Where are the bottles coming from? Can you
9 give me the way you bought them? Where did you get these
10 bottles?"

11 And so at that moment I saw Mr. Rudy Kurniawan
12 watching his plate and saying "I don't know. I buy so many
13 bottles that I cannot remember where the bottles are coming
14 from."

15 I was suspecting something bizarre because when you
16 have --

17 THE COURT: You were? You personally?

18 THE WITNESS: Yeah.

19 A. I was suspecting that something was bizarre because when
20 you have such an answer from someone which can have in his
21 hands 84 bottles of old wines from Domaine Ponsot -- which is
22 very, very rare. Some other wineries are not that rare, but
23 Domaine Ponsot is very rare. And myself I have never seen in
24 my life so many old bottles of my winery together in one
25 place.

DCCBKURT2

Ponsot - direct

1 So when you have that, you probably know where they
2 are coming from, especially if you pay a lot of money for these
3 kind of bottles. You should know where they come from. So I
4 found it a little bizarre. But, okay, we went on having lunch.
5 I didn't really insist at that time --

6 Q. Before you continue on, you said that Rudy Kurniawan was
7 watching his plate.

8 Can you describe what you mean by that and what his
9 demeanor was when you were asking him where he got the bottles
10 from?

11 A. I had the feeling that he was feeling not very comfortable
12 at that moment. Just a feeling, but we never from that moment
13 crossed the eyes together. I don't know how you say in
14 English, but...

15 Q. Do you mean there wasn't eye contact?

16 A. Eye contact. So we had a nice lunch. I didn't want to
17 insist at that moment. I wanted to think about it and decide
18 what I would do further.

19 Q. And did you contact Rudy Kurniawan sometime after the
20 lunch?

21 A. Yeah, we-- at the end of the lunch, he gave me his e-mail
22 address. And a bit later, in May, I sent him an e-mail saying,
23 again, hello and can you tell me about the provenance of the
24 wines.

25 Q. Provenance meaning the history of where they came from?

DCCBKURT2

Ponsot - direct

1 A. Exactly.

2 Q. And did Rudy Kurniawan respond to your e-mail?

3 A. Yeah, he did. He did respond.

4 MR. HERNANDEZ: Can we show Mr. Ponsot 36-17?

5 Q. Please look at 36-17 and tell me if you recognize it. We
6 can also magnify it if it's hard to read.

7 A. So in order to have more information, I wanted to talk to
8 him directly. And I --

9 Q. Before you explain, though, do you recognize this document?

10 A. Yeah, I do recognize.

11 Q. How do you recognize it?

12 A. It's an e-mail with my e-mail address at that time that I
13 sent to Rudy Kurniawan in June '08.

14 Q. And he responds to your message?

15 A. He did.

16 MR. HERNANDEZ: The government offers 36-17.

17 THE COURT: I'll allow it.

18 (Government's Exhibit 36-17 received)

19 MR. HERNANDEZ: Okay. If we can publish this to the
20 jury. And I believe the message actually begins at the bottom
21 of page 1. Well, that's all right.

22 Q. Okay. So do you see where it says "From:
23 Laurent@Domaine-Ponsot.com"? Whose e-mail is that?

24 A. It's my e-mail. One of my e-mails.

25 Q. Okay. And this message is to ri8@hotmail.com. Is that the

DCCBKURT2

Ponsot - direct

1 e-mail address that Kurniawan gave you?

2 A. This is what he gave me.

3 Q. And it's dated May 16th, 2008. It begins with "Dear
4 Rudy."

5 MR. HERNANDEZ: And then if we could see the next
6 page.

7 Q. Then, if you could just read this message, Mr. Ponsot.
8 Could you read it out loud?

9 A. Okay. Well, I wrote "It was a pleasure for me to meet you
10 and to have a chance to talk over an excellent lunch when I was
11 in New York. I look forward to seeing you if possible, when I
12 am next in Los Angeles, from July 17th to 19th.

13 "After also traveling to Washington and Philadelphia,
14 I have recently returned to Burgundy.

15 "I would like to follow up on our discussion at lunch,
16 as I remain committed to finding whoever is the source of the
17 counterfeit Ponsot wines.

18 "As you had promised, will you please e-mail me the
19 information of who sold you these wines? I will then be
20 responsible to deal with them.

21 "With warm regards, Laurent Ponsot."

22 Q. Okay. And if you could go to the first page of the
23 e-mail, there's a response here from Rudy Kurniawan and the
24 date is-- is that June 5th, 2008? Is that correct?

25 A. It is correct.

DCCBKURT2

Ponsot - direct

1 Q. Okay. And can you just read what the defendant wrote back
2 to you?

3 A. Well, he wrote: "I am replying to you the second time and
4 hopefully you get this, again, I am very excited and would love
5 to have dinner and wines with you in July."

6 "The wines I bought from The Cellar of Pak Hendra in
7 Asia, my cell phone is" -- such -- "if you need any help."

8 "Cheers."

9 MR. HERNANDEZ: Okay. And, Mr. Platt, if you can just
10 highlight Pak Hendra.

11 Q. So from this message, what did you understand the defendant
12 to be saying about Pak Hendra?

13 A. So I was happy to have a name. But when you say in Asia,
14 it's quite wide, Asia, so I don't know really what country was
15 that.

16 Q. Before you explain some more about that, did you meet Rudy
17 Kurniawan again in person any time after this e-mail?

18 A. Yes.

19 THE COURT: Could I just interrupt for one second?
20 Had you ever heard, when you received this e-mail, of this Pak
21 Hendra?

22 THE WITNESS: No, I never heard of this name. Never.
23 And I can tell you that I sell from Asia from 1982 to many
24 countries and I know quite well the market there.

25 Q. You testified earlier that when you sell wine, you get to

DCCBKURT2

Ponsot - direct

1 know a lot of the collectors. Right? You testified about that
2 previously.

3 A. Yes, I did. Yeah.

4 Q. And do you know any collectors in Asia?

5 A. I know a lot of them. I know many, many collectors in
6 Asia. And I know, also, wine merchants for sure.

7 Q. And did you ask around if anyone knew anyone named Pak
8 Hendra?

9 A. Later on, I did, yes.

10 Q. Did you then see the defendant in person again?

11 A. Sorry?

12 Q. Did you see Rudy Kurniawan in person after this e-mail?

13 A. Yes, I did.

14 Q. Was that around July 2008?

15 A. It was in July, yeah.

16 Q. And where was it?

17 A. It was in Los Angeles. I made a trip to Los Angeles to, so
18 to say, interview him. But we had nice dinner. I invited him
19 to Italian restaurant in Los Angeles and he came with some
20 bottles. I learned later on that he was used to bring bottles
21 when he was invited to dinner. Own bottles for sure.

22 So I selected one or two bottles that he offered and
23 we drank them. We had, as I remember, white wine from my
24 winery and another 1955 La Tache from Domaine de la
25 Romanee-Conti.

DCCBKURT2

Ponsot - direct

1 So at that time I was also focused on the source of
2 the wine.

3 Q. So during that dinner, did you again ask Kurniawan what the
4 source of the wines was?

5 A. Well, he gave me a name, so I wanted to know more. So when
6 I ask, "Can you give me more details on it?" he gave me two
7 phone numbers on a piece of paper. He wrote it down on a piece
8 of paper saying this is in Jakarta.

9 THE COURT: So this relates now to the wine that was
10 sought to be sold at the auction?

11 THE WITNESS: Exactly.

12 THE COURT: This is the conversation?

13 THE WITNESS: This is the conversation, yeah, on the
14 wines of the auctions.

15 THE COURT: And is it just the two of you at this
16 dinner?

17 THE WITNESS: Exactly, the two of us.

18 Q. When you were asking Kurniawan for more information, what
19 was his demeanor?

20 A. Well, as he gave me already a name, he was less
21 uncomfortable than the first time we met. Then he gave me two
22 phone numbers.

23 Q. Okay.

24 A. So I was thinking that I should be happy with that.

25 Q. You said the numbers were in Jakarta? That's Indonesia?

DCCBKURT2

Ponsot - direct

1 A. This is what he said, yes.

2 MR. HERNANDEZ: And if we can look at 36-1 for the
3 witness.

4 Q. Do you recognize 36-1?

5 A. I do recognize. It is a copy of the two phone numbers that
6 I gave you.

7 Q. Okay. And who did you get these two phone numbers from?

8 A. I got it from Rudy Kurniawan at the restaurant.

9 Q. In July in Los Angeles?

10 A. In July in Los Angeles. Restaurant is Il Grano.

11 Q. So these are the two numbers he wrote down to you and gave
12 you and he said these were the source of the wines from the
13 April 2008 auction?

14 A. This is exactly that.

15 MR. HERNANDEZ: Government offers 36-1.

16 THE COURT: I'll allow it.

17 (Government's Exhibit 36-1 received)

18 MR. HERNANDEZ: If we could publish that to the jury.

19 THE COURT: So this is not your handwriting?

20 THE WITNESS: Sorry?

21 THE COURT: This is not your handwriting?

22 THE WITNESS: No, no. I saw Rudy Kurniawan writing--
23 writing this note in front of me on the table.

24 Q. All right. So these are the two numbers you testified
25 before about that he gave you to reach the source of those

DCCBKURT2

Ponsot - direct

1 counterfeit wines?

2 A. Yes.

3 Q. Now, after the dinner was over, did you try to call either
4 of these numbers?

5 A. I did try.

6 Q. What happened?

7 A. Several times for one of them because-- had no answer.

8 Only once to the other one because it was-- the noise at the

9 end was like a fax machine. So I said if a fax, I cannot

10 reach. And I don't want to write a message by fax to someone I
11 don't know. So I gave up with the other.

12 I must admit I don't remember which was which, but I
13 tried both and one was having never an answer.

14 Q. What was your reaction when neither number worked?

15 A. Well, my reaction was that Rudy Kurniawan was lying to me
16 again, saying that it's from Jakarta. The phone number doesn't
17 reach. I learned from friends in Singapore that Pak --

18 MR. MOONEY: Objection, hearsay.

19 THE COURT: Overruled.

20 Q. You may continue.

21 A. Pak was meaning Mister and Hendra is a familiar name very
22 common in Indonesia.

23 Q. So Pak is the equivalent of Mister in English?

24 A. Yes.

25 Q. And Hendra is a very common name?

DCCBKURT2

Ponsot - direct

1 A. Very common name.

2 MR. HERNANDEZ: Your Honor, at this time we have a
3 stipulation that's related to one of these phone numbers that
4 I'd like to read into the record. I know there's an exhibit
5 related to it. We'll leave the phone numbers up and I can just
6 read the-- well, actually, let me backtrack there.

7 This stipulation has some pretty technical language in
8 it because it has web addresses. Could we put this up on the
9 screen as I read it and then, when we get to that technical
10 point, just refer to the stipulation?

11 THE COURT: Sure.

12 MR. HERNANDEZ: So that we don't have to-- you'll see
13 it's pretty confusing.

14 THE COURT: This is a stipulation again between the
15 government and the defense. Right?

16 MR. HERNANDEZ: It is. It is. It's 29-6.

17 So if Mr. Platt can pull it up and when we get to that
18 part, it's on the second page, I'll note it.

19 It says: "It is hereby stipulated and agreed by and
20 among the United States of America, by Preet Bharara, United
21 States Attorney for the Southern District of New York, Joseph
22 P. Facciponti and Jason P. Hernandez, Assistant United States
23 Attorneys, of counsel, and Rudy Kurniawan, the defendant, by
24 and with the consent of his attorneys, Jerome Mooney, Esquire
25 and Vincent Verdiramo, Esquire, that if called to testify, the

DCCBKURT2

Ponsot - direct

1 office manager at the Internet Archive, located in San
2 Francisco, California, would testify as follows:

3 "1, the Internet Archive is a website that provides
4 access to a digital library of internet sites and other
5 cultural artifacts in digital form. Like a paper library, we
6 provide free access to researchers, historians, scholars, and
7 the general public. The Internet Archive has partnered with
8 and receives support from various well-known institutions and
9 libraries, including the Library of Congress.

10 "2, the Internet Archive has created a service known
11 as the Wayback Machine. The Wayback Machine makes it possible
12 to surf more than 240 billion pages stored in the Internet
13 Archive's web archive. Visitors to the Wayback Machine can
14 search articles by URL (i.e., a website address). If archived
15 records for a URL are available, the visitor will be presented
16 with a list of available dates. The visitor may select one of
17 those dates, and then begin surfing on an archived version of
18 the web. The links on the archived files, when served by the
19 Wayback Machine, point to other archived files (whether HTML
20 pages or images). If a visitor clicks on a link on an archived
21 page, the Wayback Machine will serve the archived file with the
22 closest available date to the page upon which the link was
23 appeared and was clicked.

24 "3, The archived data made viewable and browsable by
25 the Wayback Machine is compiled using software programs known

DCCBKURT2

Ponsot - direct

1 as crawlers that surf the web and automatically store copies of
2 website files, preserving these files as they exist at the
3 point of time of capture.

4 "4, The Internet Archive assigns a URL on its site to
5 the archived files in the format" -- and this is where I'm
6 going to pause, your Honor. It goes on to list the different
7 formats in a website URL. And I'll pick up with "Thus, the
8 Internet Archive URL"-- and then it goes on to list a long URL.
9 Picking up with the stipulation, "would the URL for the record
10 of the Internet Archive home page HTML file"-- in parens the
11 name of the website-- "archived on January 26, 1997 at 4:58
12 a.m. and 28 seconds." And then the same format in parens that
13 I'll skip over.

14 Picking up with the stipulation, "A web browser may be
15 set such that a printout from it will display the URL of a web
16 page in the printout's footer. The date assigned by the
17 Internet Archive applies to the HTML file but not to image
18 files linked therein. Thus images that appear on the printed
19 page may not have been archived on the same date as the HTML
20 file. Likewise, if a website is designed with 'frames,' the
21 date assigned by the Internet Archive applies to the frameset
22 as a whole, and not the individual pages within each frame.

23 "5, Government Exhibit 36-16 is a true and accurate
24 copy of a printout of the Internet Archive's records of the
25 HTML files for the URLs and the dates specified in the footer

DCCBKURT2

Ponsot - direct

1 of the printout.

2 "It is further stipulated and agreed that Government
3 Exhibit 36-16 and this stipulation may be received into
4 evidence at the trial of the above-referenced matter.

5 "Dated: December 5th, 2013."

6 Signed by the government and counsel for the
7 defendant.

8 So at this time we offer 29-6 and 36-16 into evidence.

9 THE COURT: I'll allow it.

10 (Government's Exhibits 29-6 and 36-16 received)

11 MR. HERNANDEZ: And, Mr. Platt, if you can pull up the
12 previous Exhibit 36-1. And this is a split-screen situation,
13 if we could. And focus in just on the phone numbers. And then
14 pull up 36-16. And if you could just zoom in on the very top
15 where it says Lion Air, the part where there's a graphic.
16 Thank you.

17 BY MR. HERNANDEZ:

18 Q. Okay. This is 36-16, the document that's just been
19 admitted. Lion Air is an airline according to this web page.

20 MR. HERNANDEZ: And then if you could just back out
21 and then focus in where it says "Product & Service" in the
22 paragraph down below. Actually, if you could just focus in on
23 the text itself. Just make it even closer. Is that as close
24 as we can go? Well, that's fine.

25 If you can highlight the last number in bold on the

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Ponsot - direct

1 right. And I'd just ask the jury to compare the first number
2 in 36-1, which the defendant gave to Mr. Ponsot, to the number
3 listed on the Lion Air web page on the right.

4 Mr. Platt, for the page on the right, this is the Lion
5 Air page, if you could just focus in on above the graphic that
6 says "Lion Air." That's where it says "Wayback Machine." Give
7 us that whole bar. And if you could just focus in on that
8 green font on the right. It shows that the Wayback Machine
9 retrieved this copy of the Lion Air web page, an archived copy,
10 on July 13, 2008. So that's the way the Lion Air page would
11 have appeared at that time.

12 BY MR. HERNANDEZ:

13 Q. And, Mr. Ponsot, remind us again, when was the lunch, what
14 month and year, when the defendant gave you these two phone
15 numbers?

16 A. It was July 2008. I guess the 19th.

17 Q. Thank you.

18 All right. Mr. Ponsot, picking up with where we were
19 before I read that stipulation, did you see the defendant, Rudy
20 Kurniawan, again after that July 2008 lunch?

21 A. Yes, I did.

22 Q. When was that?

23 A. It was in May 2009, again in Los Angeles and again at a
24 dinner.

25 Q. Okay.

DCCBKURT2

Ponsot - direct

1 A. That I organized myself.

2 Q. And was anyone else present?

3 A. No, it was just the two of us.

4 Q. Did you ask the defendant any questions about Pak Hendra,
5 the phone numbers that he gave you or the source of the
6 counterfeit wines?

7 A. Yeah. Well, I said to him that what he gave me is not
8 something that I can follow and I could not reach any person.
9 I didn't know about what the phone number at that time, but I
10 could not reach anyone. I say, "Well, give me the more
11 information. Give me the real truth now." And I was a
12 little more -- not aggressive, always kind, but more firm in
13 asking. So we had this dinner gently. I'm not an aggressive
14 person, never. And I wanted to know.

15 So at the end I was a little more giving pressure to
16 him and saying, "Now you have to tell me the truth." He
17 promise that the next day by return he would send me an e-mail
18 with all of the names of the providers, and I still wait until
19 today.

20 Q. So you never received the e-mail?

21 A. Never.

22 Q. Now, after the Domaine Ponsot wines were removed from that
23 Acker auction in April of 2008, did you do anything on your own
24 to investigate counterfeit wines in the marketplace?

25 A. Yes, I did. When we had the lunch at Jean-George, I

DCCBKURT2

Ponsot - direct

1 understood that there is something behind that. I mean, you
2 cannot find so many old bottles which are not accurate and, I
3 would say, fake. They are fake. So I wanted to understand.

4 I mean, This is-- when you are a winemaker and when
5 you see your bottles faked, the first idea you have is a bit of
6 glory. You say, Wow, somebody is counterfeiting my wines? It
7 means my wines are at a good level. So this is a human being.
8 Everyone that is a winemaker when he has this problem goes
9 through the same feeling. But very quickly I said to myself,
10 yes, but someone one day will open a bottle and he will be
11 disappointed because it's not the wine I made and this is not
12 good for the reputation of the winery.

13 But on top of it -- and this is what my idea was --
14 it's dirtying the spirit of the appellations of Burgundy. What
15 I didn't mention when I showed you the map is in Burgundy, 70
16 kilometers long, 1 kilometer wide, you have 1,250 different
17 appellations. I think you know now what an appellation is.
18 It's a type of wine. So 1,250 on a very small surface. This
19 is what we call the terroir. There is no translation in
20 English. Terroir means location. Terroir is t-e-r-r-o-i-r.
21 Even though the connoisseur in English use this word, terroir.
22 This means the location where the vine is growing, where the
23 wine is produced. Due to all of the elements that nature gave
24 us plus the human being that is in the middle as an element of
25 the chain between the roots of the vine and the glass of wine.

DCCBKURT2

Ponsot - direct

1 So this is very important to say. And through the
2 fake bottles, I think that this spirit, this unique thing on
3 the planet, is dirt. My idea was to try to wash the integrity
4 of the terroir of Burgundy.

5 So I decided -- I said sometimes that I was starting a
6 crusade against the fakers. This is kind of. But when I
7 started, I was more like a Don Quixote with the windmills. I
8 didn't know what I could find on the way. Maybe nothing. I
9 was feeling a bit naive probably at the beginning, but I
10 started to investigate.

11 And my system of investigation was very simple. I
12 know a lot of the wine trade, of the people that are drinking
13 wines. So I went to all invitations possible to try to drink
14 the most possible wines. And when I found one suspect, follow
15 the link, try to find out where the wine is coming from and so
16 and so. So I did it during almost two years.

17 Q. And --

18 A. I did it. It was not my job. I am a winemaker. But each
19 time I had the opportunity, I did it. And sometimes I did it
20 on purpose. I made a trip specifically to go to a place where
21 I could maybe find something. So this is what I did during
22 almost two years.

23 Q. And during that period, did you have to spend any money to
24 do those investigations?

25 A. Yeah. Well, I did spend money because when I had to fly to

DCCBKURT2

Ponsot - direct

1 Singapore or to Los Angeles or to someplace like that and take
2 a hotel room and rent a car. I estimate my costs from the
3 beginning of my investigation to today at 120,000 euros.

4 MR. HERNANDEZ: No further questions.

5 THE COURT: Do you want to take a two-minute break?
6 Okay. We'll take a break and then we'll have
7 cross-examination.

8 (Recess)

9 (Continued on next page)

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Dccdkur3

Ponsot - cross

1 (Jury not present)

2 THE COURT: Did you say that there was a housekeeping
3 issue?

4 MR. HERNANDEZ: There is, just in terms of scheduling,
5 your Honor, for today.

6 THE COURT: OK.

7 MR. HERNANDEZ: The next witness after Mr. Ponsot is
8 Christopher Roumier, and then --

9 THE COURT: And he is here?

10 MR. HERNANDEZ: And he is here.

11 We may not go exactly 12:45 for lunch, because then we
12 have another witness who is short and then another witness who
13 needs to start at 2. He is not available until 2.

14 THE COURT: So, actually, it would help me because I
15 have a meeting. If we stopped at 12:30, would that help you?

16 MR. HERNANDEZ: I think it would. I am just letting
17 the Court know that we may need a little bit shorter lunch
18 break. It is only because a small logjam of witness but we are
19 going to clear it this afternoon.

20 THE COURT: Well, it wouldn't be shorter. It would
21 actually be longer, but there is nothing I can do about that on
22 the back end.

23 So my proposal to you is we stop here at 12:30 and
24 resume at 2 o'clock.

25 MR. HERNANDEZ: Well, we would like to use up as much

Dccdkur3

Ponsot - cross

1 time as we could. It just means that --

2 THE COURT: There is a meeting I have between 1 and 2
3 that I have to go to.

4 MR. HERNANDEZ: Great. I am saying that the lunch
5 hour I'm not suggesting that we change. It is just that we
6 have a witness who needs to start basically at 2. And if it
7 means interrupting a witness, if the Court is amenable --

8 THE COURT: No problem.

9 MR. HERNANDEZ: -- we could put him on.

10 THE COURT: Just as a heads up, so my 2 o'clock
11 meeting could run over a little bit. It is a Board of Judges
12 meeting, so I have to be at that.

13 But, yeah, I have no problem with taking witnesses out
14 of turn starting --

15 MR. HERNANDEZ: Great.

16 MR. MOONEY: We are good with that. We are good with
17 stopping at 12:30.

18 THE COURT: Just one question for -- one comment for
19 the media. Just something to think about.

20 At the end of the day, when the jurors go out, the
21 jurors are hearing -- I don't know if it is media or not, but
22 the jurors are hearing, or have heard, as they go to the
23 elevator people talking about the case. And so they worry
24 because my rule is don't be around people talking about the
25 case.

Dccdkur3

Ponsot - cross

1 So if you do -- you don't have to answer now -- one of
2 two things. Either you could stay in here until they have gone
3 down in the elevator, or you could make sure that you are not
4 talking about the case within the earshot of the jury. But in
5 any event, just heads up. OK? So, yes.

6 (Continued on next page)

Dccdkur3

Ponsot - cross

1 (Jury present)

2 THE COURT: Please be seated, everybody.

3 If I might, Mr. Mooney, I have two sort of background
4 questions, if I might ask the witness before you start?

5 MR. MOONEY: Certainly, your Honor.

6 THE CLERK: Judge.

7 Sir, I would just like to remind you, you are still
8 under oath.

9 THE WITNESS: Sorry?

10 THE CLERK: You are still under oath, providing sworn
11 testimony.

12 THE WITNESS: Yes.

13 THE COURT: So if you could just explain -- you have
14 seen the bottles and there are different sizes on that table.
15 And we've also seen before you arrived yesterday and the day
16 before even bigger bottles.

17 And could you just sort of generally tell us, is there
18 a rationale for when wine is in a small bottle or a bigger
19 bottle or yet a bigger bottle still, and what that rationale
20 is?

21 THE WITNESS: Well, usually people were bottling in
22 what we call the 750 milliliter bottles, which is the actual
23 main bottles you see -- in quantity you see on the table.
24 Every winery that was estate bottling would put some wine in
25 larger formats only, I would say, 2, 3, maximum 10 percent of

Dccdkur3

Ponsot - cross

1 the appellation of one specific vintage. And the much bigger
2 formats, like Jeroboam and Methuselah, which are all
3 multiplications of the size of the bottle, a magnum is twice as
4 big as a bottle, Jeroboam is four times, and the Methuselah is
5 eight times. So this is really made very rarely.

6 For example, in our winery, we started the Jeroboams
7 and Methuselahs with vintage 1993. Neither my father nor my
8 grandfather would ever bottle in these big formats, but magnum,
9 yes. This is traditional in Burgundy to bottle a little of the
10 wine in magnum. The magnum has the capacity to age better than
11 the bottle because you have double quantity, volume, with the
12 same surface of cork. So the oxygenation, that I said earlier,
13 is slower in a magnum so the wine can age longer.

14 So we would put the wine in the bottles to drink
15 earlier and leave the magnums laying down in cellars, drink
16 them later.

17 THE COURT: Thank you.

18 CROSS-EXAMINATION

19 BY MR. MOONEY:

20 Q. And maybe just to stay with that theme for a second. If
21 you go back to the early periods of the vineyards, most of the
22 vineyards would primarily, particularly in Burgundy,
23 particularly put the wine and sell it in barrels, is that true?

24 A. Yeah, they were sold in barrels.

25 Q. And so if you go back -- and I think you said '32 was the

Dccdkur3

Ponsot - cross

1 first year that your records show that Ponsot was doing estate
2 bottling?

3 A. Exactly.

4 Q. But it is not the first year that they were producing wine?

5 A. No, it was not.

6 Q. You were producing wine out of the Burgundy region going
7 back to the 1800's, is that right?

8 A. 1872.

9 Q. And so at least the commercial wine, most of the commercial
10 wine that was being sold during that period of time, would be
11 put into barrels and then the barrels would be sold to
12 negociants?

13 A. Exactly.

14 Q. And then the negociants would be the ones who would then
15 bottle the wine, is that true?

16 A. Exactly.

17 Q. Now, at the vineyard -- you still had bottles back in those
18 early periods, didn't you?

19 A. Not before 1932.

20 Q. No bottles at all; you didn't put any bottles to consume
21 for yourself?

22 A. No.

23 Q. No bottles that were sold to restaurants?

24 A. Nope. Never.

25 Q. So, of course you weren't there in 1932, were you?

Dccdkur3

Ponsot - cross

1 A. I was not there, yeah --

2 Q. I know I wasn't.

3 A. Regarding, we know what --

4 Q. But there is no records to show anything going out to
5 restaurants or anybody at that period of time?

6 A. No.

7 Q. For at least for Domaine Ponsot?

8 A. No, we have no record specifically on that.

9 Q. You showed us a picture of some of the wines that you still
10 have kept inside of the library or the archives. And the
11 bottle that we saw, when we saw an individual bottle -- I
12 couldn't tell, was that a bottle or was that a magnum that we
13 were looking at?

14 A. I think it was a bottle.

15 Q. OK. And there was no label on that bottle, was there?

16 A. No.

17 Q. And when you bottle wines to keep inside the vineyard,
18 those bottles originally are not labeled, are they?

19 A. No.

20 Q. Once you label a bottle, you are taxed on it, is that
21 right?

22 A. We do?

23 Q. Don't you become taxed on the bottle under French law once
24 you put a label on the bottle?

25 A. No.

Dccdkur3

Ponsot - cross

1 Q. So that is not true?

2 A. No.

3 Q. But you do keep bottles around the vineyard that don't have
4 labels on them?

5 A. Yes. We keep it in the cellar, as we say, naked.

6 Q. And when the label goes on is when the bottle leaves the
7 vineyard?

8 A. Exactly.

9 Q. Unless you give it to a friend or pass it on to someone?

10 A. Be even if we give a bottle to a friend, if we share a
11 bottle with a friend, we put a label on.

12 Q. But even then you are going to label; it, is that what you
13 are saying?

14 A. Exactly..

15 Q. And the label that you are primarily concerned about, of
16 course, is something down here on the bottom that would
17 identify the information that you gave us about what the wine
18 was.

19 (Pause)

20 And was that a yes?

21 A. Yes.

22 Q. I'm sorry. This is being taken down so you have to answer
23 out loud.

24 A. Yes. Clearly.

25 Q. Thank you. Then, of course, you would also want to put the

Dccdkur3

Ponsot - cross

1 vintage up on it, is that correct?

2 A. On some of the vintages, yes. Some other vintages, it was
3 written directly on the label.

4 Q. Right. So this combination of label and estate, the
5 vintage is separate?

6 A. Yes.

7 Q. But some of the others that you showed us on the Clos de la
8 Roche, the vintage was right there on the label itself?

9 A. Exactly.

10 Q. So all you needed in that case would be just the one label?

11 A. Yes.

12 Q. Then after it leaves you, other people who start handling
13 the wines might add stickers to it, is that right?

14 A. Might what?

15 Q. Put stickers on them.

16 A. Yes, stickers.

17 Q. Other people --

18 A. Stickers, yes.

19 Q. For example -- and I understand that you've already said
20 that what's on here does not appear to be your wine. So I am
21 not implying anything different by asking you questions about
22 it. OK?

23 A. OK.

24 Q. So, for example, if we look at Exhibit 8-26, it has a green
25 sticker up here at the top. And it talks about a -- I've got

Dccdkur3

Ponsot - cross

1 to get my glasses.

2 Maybe you can read it. Whose sticker is that at the
3 top? I think you recognized it before, didn't you.

4 A. Frank Schoonmaker.

5 Q. OK, Schoonmaker. And you know who that is?

6 A. I know. I never met this guy because he died before I was
7 born but I know him.

8 Q. And what, for example, would that company do?

9 A. Importing wine.

10 Q. So if they had gotten wines from Ponsot and then imported
11 them someplace, then they would add their sticker label?

12 A. They would add then that.

13 Q. And it looks like this one has been Scotch taped on there,
14 doesn't it?

15 But you are saying that that sticker on this bottle
16 doesn't fit with what we see on the label?

17 A. No. Absolutely not.

18 Q. The timing is out of whack somehow?

19 A. Yes.

20 Q. Is that because the Frank Schoonmaker comes afterwards or
21 comes before?

22 A. No. He was the first to import my grandfather's wines in
23 the early '30s.

24 THE COURT: How does that work? Do you sell the wine
25 to the importer, or is the importer just an agent?

Dccdkur3

Ponsot - cross

1 THE WITNESS: No. We sell to the importer.

2 THE COURT: So the importer then sells it to U.S.?

3 THE WITNESS: Ship it to U.S., and then from there
4 sells to the market directly.

5 BY MR. MOONEY:

6 Q. And then, for example, on Exhibit 8.29, we've got another
7 importer's sticker that's been added to that bottle.

8 A. Yeah. This I don't know even the name.

9 Q. Right. But once the wines left the vineyard, once you've
10 sent it out, you sold it off to somebody, you don't know what's
11 going to happen in terms of who adds their stickers along the
12 way as it passes through their hands, is that it?

13 A. That's for sure.

14 Q. You don't put serial numbers on your bottles, do you?

15 A. Not at that time. We do now.

16 THE COURT: And "at that time," you mean when?

17 THE WITNESS: Everything you have on the table.

18 THE COURT: At that time, you did not?

19 THE WITNESS: No. We started that within the vintage
20 2007.

21 BY MR. MOONEY:

22 Q. So very recently?

23 A. Very recently.

24 Q. You also said that prior to 1985 you did not use wax --

25 A. No.

Dccdkur3

Ponsot - cross

1 Q. -- capsules?

2 A. No. We did not.

3 Q. And the capsules that you used were just the foil?

4 A. It was a foil.

5 Q. And I think you've told us that, for example, if we look at
6 these two, you didn't use a bright colored foil for that?

7 A. No. Plain red.

8 Q. And you used something more like this capsule?

9 A. More like this.

10 Q. And does this look like it is a correct capsule in 8.26 --
11 8-26?

12 A. Yeah. This is kind of -- normally it is a little more
13 Burgundy color than this one, but it's the kind of foil.

14 Q. But then starting in 1985, you started putting wax capsules
15 on them?

16 A. Only on the old bottles that have been reopened, refilled,
17 to store in the library, not systematically to the others. We
18 went on using foil.

19 Q. So did you take everything that was in the library in 1985
20 and open it and reseal it and rewax it?

21 A. Yes, everything which was before 1970.

22 Q. So anything that left the vineyard after 1985 would have --
23 that was pre-'70, or '70 or before, would have a wax capsule on
24 it, is that right?

25 A. If we sold something after 1985 out from the Domaine which

Dccdkur3

Ponsot - cross

1 was pre-1970, it would wear the wax.

2 Q. And, in fact, you sold a good number of those wines?

3 A. Not that I remember. I told earlier that we didn't have a
4 lot of old bottles in the library. So we tried to keep it and
5 drink it with the family or with friends. I made only one
6 auction one day myself in which I they have some of these
7 bottles. And we made special labels for this auction.

8 Q. Didn't you sell a bunch of wine to Christie's?

9 A. No.

10 Q. In February of 2000, didn't the Domaine sell a number of
11 '49, '50 and earlier -- well, strike that.

12 Didnt you sell in February of 2000 a good number of
13 pre-'85 wines --

14 A. Yes, we did.

15 Q. -- at an auction at Christie's?

16 A. Not Christie's.

17 Q. Not Christie's. Sotheby's?

18 A. Sotheby's.

19 Q. I'm sorry. OK.

20 A. But these wines were wearing a special label.

21 Q. And those included two Methuselahs?

22 A. Yes.

23 Q. How big is a Methuselah?

24 A. It is eight times a bottle.

25 Q. And it included at least nine Jeroboams?

Dccdkur3

Ponsot - cross

1 A. I don't remember exactly but this is possible.

2 Q. And there is no Methuselahs or Jeroboams sitting on this
3 table, are there?

4 A. No.

5 Q. A Jeroboam is at least twice as big as this?

6 A. Exactly.

7 Q. And a Methuselah?

8 A. Four times.

9 Q. Is four times as big as this?

10 A. As a magnum.

11 Q. Which means it's eight times as much as this?

12 A. Exactly.

13 Q. "This" being the 750, the regular bottle.

14 Do you ever recondition or recork wines for people who
15 have your wines?

16 A. No, we don't. We have done that only once in the winter
17 1985.

18 Q. So if I've got an old Ponsot, I can't bring it back to you
19 and have it reconditioned or recorked?

20 A. No. You can bring it to me to authenticate but not to
21 recondition.

22 Q. OK. In fact, your recommendation is probably that I just
23 drink it, right?

24 A. Do what you want.

25 Q. That's what this is designed for, isn't it?

Dccdkur3

Ponsot - cross

1 A. The wine is be made to be drunk, that's for sure.

2 Q. And when we don't drink it and we leave it sitting around,
3 bad things can start to happen to it, right?

4 A. If you drink too much.

5 Q. Well, that's true, too. But, for example, looking at 8-22,
6 I mean, what's wrong with that bottle even if it was right?

7 A. Well, if it's a real wine.

8 Q. Even if it was real, even if that was real, what is wrong
9 with it?

10 A. What was wrong?

11 Q. Yes. Is there anything wrong with --

12 A. Oh, yeah. The neck. The neck is wrong. A 1945 with such
13 a neck, if it is a real bottle, I buy it immediately. It is
14 impossible that the 1945 has such a small -- the neck, for the
15 jury, is the air, the surface of air inside the bottle. I said
16 that through the cork the wine breathes, so to say, and the air
17 gets in and the wine is going out by evaporation. So when you
18 have a '45, a good '45, the neck would be here, not here. This
19 is a really good bottle.

20 It can happen. It is rare. But when you have that,
21 this is a really good bottle. Unfortunately, this one is not
22 real.

23 Q. And this one is leaking, isn't it?

24 A. It is leaking on top, yeah.

25 Q. And that is bad?

Dccdkur3

Ponsot - cross

1 A. That is bad. It has been exposed to heightened pressure.

2 Q. And if it is leaking, it also tends to be that more oxygen
3 stays inside and --

4 A. Yes.

5 Q. Now, you said that another problem that you saw with these
6 wines is that the capsules have been cut in many circumstances.

7 Do you know why capsules are frequently cut from old
8 wines?

9 A. There is absolutely no reason you cut a capsule from the
10 bottom. When you cut a capsule is to open the bottle, to make
11 the cork free to be opened by a corkscrew. The only reason why
12 you would eliminate the bottom of the capsule is to see what
13 the cork is saying.

14 It can happen in your cellar when you have a -- when
15 the label is a little wet and difficult to read. Then you can
16 do that, to see if there is a print on the cork saying the
17 vintage and the name of the winery. Otherwise, you have to do
18 that to check.

19 Q. But if you've got questions about what you are seeing and
20 you want to look at the cork, it is hard to see the cork if the
21 capsule is not cut, isn't it?

22 A. Yes. For sure.

23 Q. So some experts sometimes will actually cut the capsule to
24 take a look?

25 A. Some experts are doing that, for sure.

Dccdkur3

Ponsot - cross

1 THE COURT: So when you open a bottle of wine, you cut
2 the capsule at the top?

3 THE WITNESS: At the top.

4 THE COURT: And then --

5 THE WITNESS: And then you put the corkscrew in and
6 you extract the cork, or you eliminates the whole capsule.

7 BY MR. MOONEY:

8 Q. So you don't know when these capsules got cut?

9 A. No, I don't know. But I say that this is also a way to see
10 if the cork is marked. If it is not, you can use the bottle
11 for something else.

12 Q. Does Domaine Ponsot mark its corks?

13 A. We do. We do. And we have the name and appellation and
14 vintage from the vintage 1986, not before. Before we had only
15 the name Domaine Ponsot and the prices we paid.

16 Q. From the time it started doing estate bottling in '32, did
17 it have the regular name on the -- the name of Ponsot on the
18 cork?

19 A. I don't know. I'm not sure.

20 Q. You do know that most of Burgundy was using just generic
21 corks?

22 A. Generic corks. And our reason most of the Domaine estates
23 bottle, many of these people would not expect one day to be
24 faked, so they didn't take any precaution.

25 Q. Do you know when Domaine Ponsot started using corks that

Dccdkur3

Ponsot - cross

1 had the names on them?

2 A. I don't know, really.

3 Q. So if we look at a 1959 Ponsot Denis that somebody has cut
4 to expose the cork, which you've already told us that there
5 would be no reason at all to cut the capsule on this bottle,
6 would there?

7 A. Except to look to see what kind of wine it is, if it is
8 eventually written on the cork.

9 Q. To see if it says something other. Because that couldn't
10 be a Domaine Ponsot, could it?

11 A. It cannot be a Clos St. Denis because it is an earlier
12 vintage.

13 But you see this magnum with no label, you just have a
14 capsule. You eliminate the capsule, you see that the cork is
15 not -- there is nothing written on the cork. So you can use
16 this bottle to produce another wine.

17 Q. Now, there was Clos St. Denis prior to --

18 A. 1982 is the first vintage.

19 Q. Of Ponsot?

20 A. Of Domaine Ponsot.

21 Q. But there was Clos St. Denis wine?

22 A. Oh, for sure.

23 Q. The vineyard existed?

24 A. It exists.

25 And something I didn't say to the jury is that an

Dccdkur3

Ponsot - cross

1 appellation can be divided in many owners. Not only Domaine
2 Ponsot is producing Clos de la Roche or Clos St. Denis but
3 several. The best example is the Clos de Vougeot, which is one
4 property which is owned by 85 owners or 50 hectares. So each
5 owner has a little part. And each one has the right to put his
6 label on the wine he is producing from this particular
7 appellation.

8 So, for sure, Clos St. Denis was existing before us.
9 When we got the vineyard, it was planted since 1905, a very old
10 vine. So we went on farming and making the wine, but someone
11 else did it before.

12 Q. You didn't come in in 1982, tear up all the vines and plant
13 new vines?

14 A. No. It was planted from 1905. It is one of the oldest
15 vines still existing in Burgundy.

16 Q. I think you told us that originally your grandfather would
17 sign his name on the labels of the bottles?

18 A. Yeah, he did.

19 Q. Did he sign his name on the labels before they went onto
20 the bottles or after they were on the bottles?

21 A. No. Before that.

22 Q. Before that?

23 A. In his armchair --

24 Q. He would sit there and sign them in front of the fireplace?

25 A. In front of the fireplace at night instead of watching TV.

Dccdkur3

Ponsot - cross

1 Q. And that is something that you remember from being a child?

2 A. Yeah. I saw him many times doing it.

3 Q. And I don't want to be indelicate but what is your
4 birthday?

5 A. 1954.

6 Q. 1954. So from sometime after 1954, you remember that
7 practice going on?

8 A. Well, I was very young and I still have a vision of my
9 grandfather doing it.

10 Q. Sure. And --

11 A. But he quit in 1958 his job of winemaker.

12 Q. So there would not be any signed by him after 1958?

13 A. No. Last vintage.

14 Q. And, of course, you don't know if every year leading up
15 until 1958 he signed every last label that went out?

16 A. No, I don't know.

17 Q. You said that Domaine Ponsot never dealt with Nicolas, is
18 that correct?

19 A. It is correct.

20 Q. Did you deal with another company by the name of
21 Remoissenet?

22 A. Never.

23 Q. Never sold to them?

24 A. Never.

25 Q. Who were the negociants that Ponsot sold to -- Domaine

Dccdkur3

Ponsot - cross

1 Ponsot sold to?

2 A. We didn't sell to negociants; we sold to wine merchants.

3 Q. Prior to 1932, before you did estate bottling, I thought
4 you said you sold to negociants?

5 A. No, I didn't say that.

6 Q. You sold directly to merchants?

7 A. No. We at that time, another branch of the family was
8 owning restaurants.

9 Q. So you sold only to restaurants prior to 1932?

10 A. The restaurants of the family. We sold the barrels to the
11 restaurants of the family, which was in Northern Italy.

12 Q. So you would sell it in barrels to restaurants?

13 A. To the restaurants.

14 Q. But not in bottles to restaurants?

15 A. Not in bottles.

16 Q. You don't know then what the restaurants did with it after
17 they got it?

18 A. They probably bottled it, surely. But you cannot sell then
19 the wine to clients in the restaurant from the barrel directly.

20 Q. How many different restaurants were you selling to at this
21 point in time?

22 A. My ancestors were owning all the railway station
23 restaurants in Northern Italy. So they had something like ten
24 different restaurants in all the northern cities of Italy. My
25 ancestors -- French ancestors, wearing the name of Ponsot

Dccdkur3

Ponsot - cross

1 Freres, Ponsot Brothers.

2 Q. And did none of the wines stay at the vineyard at all prior
3 to 1932?

4 A. I guess, my ancestor was keeping for drinking himself, but
5 I have no recall of that.

6 Q. You would think that they would keep some to drink,
7 wouldn't you?

8 A. He was a good drinker, as I said.

9 Q. I mean, you tend to drink your own product when you can,
10 don't you?

11 A. Exactly.

12 Q. And share it with some of your other friends?

13 A. And I don't pass my turn.

14 Q. You would be invited less often if you never brought any of
15 yours, right?

16 A. Well, I don't need to bring. When I'm invited, people have
17 already my wine. And sometimes I am a little fed up drinking
18 always the same wines, mine.

19 Q. So one of the things that tends to happen is when you get
20 invited to dinner, people show up and they bring your wines?

21 A. Well, I said, wow, it's great, and we enjoy it for sure.

22 Q. It is a compliment?

23 A. It is a compliment. For sure, it is a compliment.

24 Q. It is a compliment that they would show up and say here's
25 your wine?

Dccdkur3

Ponsot - cross

1 A. Yes.

2 Q. That's what I brought for this occasion, it is your wine?

3 A. Yes. Quite often.

4 Q. Didn't you tell on earlier dates the estates -- that it
5 wasn't 1932 that the vineyard started estate bottling but it
6 was actually 1934?

7 A. Well, this is what my father said.

8 THE COURT: So let's just hear what you know and not
9 what he told you.

10 THE WITNESS: Yeah. But my father said to the public
11 that it was 1934. And I discovered that it was 1932, and that
12 was because I found in the -- I have to dig in the family
13 archives, and I found that my grandfather started in 1932. And
14 my father didn't remember it well, that's it.

15 Q. So when you had earlier said 1934, you were relying upon
16 just what your father had told you?

17 A. It was not a lie. It was just a mistake.

18 Q. I understand. You were relying upon information that you
19 had been given?

20 A. Yes.

21 Q. And you subsequently learned that information was wrong?

22 A. It was wrong. Due to this case, I had to dig in the
23 archives, and I found out that my grandfather started in 1932.
24 And I found bottles -- real bottles of 1932 in the cellar of a
25 restaurant in France to which my grandfather was selling.

Dccdkur3

Ponsot - cross

1 Q. So if there was a 1932 bottle that you found in a
2 restaurant, that would make it rather difficult if it hadn't
3 bottled until 1934?

4 A. Exactly.

5 Q. And you would be talking about the same thing here where
6 you are saying it is just not possible?

7 A. Yes. But now we have recourse.

8 Q. So now you have things to say, OK, we now know that is '32.

9 A. Exactly. We have the recourse now.

10 Q. Because we weren't there.

11 A. That's for sure.

12 Q. And it was a long time ago.

13 And things were a lot less formal back then, weren't
14 they?

15 A. It was not really formal. As I said previously, nobody
16 would expect that someone one day would copy a bottle. So they
17 didn't take much precaution.

18 Q. And I've heard your grandfather -- is it Hippolyte, is that
19 the right way to pronounce his name?

20 A. Yes.

21 Q. -- he has been described as something of a Renaissance man;
22 would that be fair?

23 A. He was not a renaissance, but he worked hard to do it -- in
24 the dark, probably.

25 Q. And he was not one to necessarily be tied down by lots and

Dccdkur3

Ponsot - cross

1 lots of paperwork; he loved what he was doing?

2 A. He was really a passionate guy.

3 Q. Even though you don't recondition wines or recork wines for
4 people, have you heard of collectors, people on their own,
5 recorking their wines?

6 A. Never heard of that.

7 Q. Have you heard of collectors or other people adding wax to
8 protect their wines?

9 A. I've never heard that.

10 Q. Now, if you had a wine like this one, that was starting to
11 show leakage, one of the things you could do is open it and
12 drink it immediately, right?

13 A. This is one option.

14 Q. The other thing that you could do is you could at least
15 seal it with wax or something, couldn't you?

16 MR. HERNANDEZ: Objection just to the "you." Does he
17 mean Domaine Ponsot, or someone else?

18 THE COURT: That is a good point.

19 MR. MOONEY: That is a good point.

20 THE COURT: Rephrase.

21 Q. If this were your bottle of wine and let's pretend for a
22 moment that it's one that you would value and you see that it
23 is leaking, you don't want to leave it like that, do you?

24 A. If it's a bottle stored in our library we see leaking, for
25 sure we would change the wax. We would eliminate the wax that

Dccdkur3

Ponsot - cross

1 is leaking, check the cork, because if it is leaking the cork
2 is not genuine, so we would maybe change that. Only if we have
3 the wine stored in our library.

4 When I have in my private cellar a wine like that, I
5 drink it or I eliminate the wax and lay down for a longer time.
6 But I would never rewax a wine which is already labeled in my
7 private cellar whether it be from Bordeaux, Burgundy, Italy or
8 whatever.

9 Q. So you personally would just not do that?

10 A. No. And on top of it, to put wax on a bottle, it is quite
11 a system.

12 Q. You said that there came a point in time when you started
13 to learn that there were unauthentic bottles of Ponsot wines in
14 the marketplace.

15 Do you recall when you first learned that there were
16 bottles out there that weren't real?

17 A. The first time I saw one was in 1995, one bottle in Kuala
18 Lumpur.

19 Q. So as of 1995, you became aware that at least somebody out
20 there had made a bottle that purported to be a Ponsot bottle?

21 A. Exactly.

22 Q. Ponsot wine.

23 And it was not?

24 A. It was not. And it was a bad fake. The label was really a
25 photocopy. So it was easy to determine that it was not a real

Dccdkur3

Ponsot - cross

1 wine.

2 Q. And at that point in time -- the first one you saw, you
3 sort of complimented, ah, this is -- they like it enough to
4 want to make a copy?

5 A. A human being.

6 Q. But then you started seeing more and more of it, right?

7 A. I don't say I saw a lot. Privately one bottle, two; a case
8 sometimes. But until this auction, I never sold so many
9 bottles.

10 THE COURT: And which auction was that? 2000 --

11 THE WITNESS: The auction in 2008, April 25th.

12 BY MR. MOONEY:

13 Q. That's when you saw a big grouping of them altogether?

14 A. Yes.

15 Q. That appeared --

16 A. I saw that in the catalog already.

17 Q. You looked in the catalog. Mr. Barzelay said check it out,
18 and you looked in the catalog.

19 Then you flew out to New York and -- I'm sorry. You
20 have to answer out loud.

21 A. Yes. I did fly to New York.

22 Q. I am sorry.

23 A. Yes.

24 Q. I just want -- we have to make sure that the court reporter
25 can get the things down. Otherwise it looks like I am talking

Dccdkur3

Ponsot - cross

1 to myself.

2 A. I was willing that the auctioneer would not sell the
3 bottles before we could really authenticate by good expertise.

4 Q. And they didn't sell them, did they?

5 A. No.

6 Q. They held them back?

7 A. They did.

8 Q. And Mr. Kurniawan agreed with that, didn't he?

9 A. He did.

10 Q. He said don't sell these because there is a problem.

11 THE COURT: Is that a question?

12 MR. MOONEY: Yes. That is a question.

13 A. Yes. I've been told that he was agreeing.

14 Q. And then you went to lunch with Rudy Kurniawan and
15 Mr. Kapon?

16 A. Exactly.

17 Q. And the conversation was about the bottles at the auction?

18 A. It was.

19 Q. And Mr. Kurniawan told you at that lunch that he had bought
20 all the bottles from a single source, is that correct?

21 A. No. He didn't say anything like that.

22 Q. He didn't tell you that?

23 A. He said nothing about the source.

24 Q. He told you he bought the bottles in Asia?

25 A. He didn't send me anything about the provenance of the

Dccdkur3

Ponsot - cross

1 bottles.

2 Q. So nothing at all at that point in time?

3 A. He just said he didn't remember.

4 Q. He said he would get back to you and give you information?

5 A. I don't --

6 THE COURT: He said he would follow up?

7 THE WITNESS: Yeah.

8 Q. He said he would follow up?

9 A. Yeah.

10 Q. And he did follow up, didn't he? He sent you an e-mail?

11 A. He did.

12 Q. And he identifies in the e-mail somebody by the name of

13 Mr. Hender?

14 A. Exactly.

15 Q. But he doesn't tell you anything more about who Mr. Hender
16 is?

17 A. No.

18 Q. Well, you didn't know who Mr. Hender was?

19 A. I didn't know at all.

20 Q. And at least at that point in time you didn't have any
21 other contact information except that Mr. Hender lived in Asia?

22 A. This was the only information I have.

23 Q. Now, did you know at that point in time that Rudy came from
24 Indonesia?

25 A. I didn't know.

Dccdkur3

Ponsot - cross

1 Q. You later did learn that he was of Indonesian birth, right?

2 A. I learned later on that he was from Indonesia.

3 Q. And then you had to leave.

4 After you had come to New York and you had been there
5 for the auction, you had other things you had to do so you left
6 the country and went back to France, right?

7 A. No. I stayed in the country because I had a trip planned
8 for later, but I decided to follow up doing my schedule in
9 Athens.

10 Q. You had business to attend to and you attended the
11 business?

12 A. Yes. I went to see -- work on my business.

13 Q. And then you had an opportunity to come back, and that's
14 when you communicated by e-mail with Rudy and said let's get
15 together and go to dinner?

16 A. I did.

17 Q. And he said, Sure?

18 A. Yes.

19 Q. He seemed happy to meet with you?

20 A. I was not focused on him at that time. I was just willing
21 to want what happened. So I was nice and that's it.

22 Q. And he didn't say, no, he can't do it; he said, sure, let's
23 meet?

24 A. Exactly.

25 Q. And you met for dinner?

Dccdkur3

Ponsot - cross

1 A. We did.

2 Q. You went to a nice restaurants?

3 A. I don't know if it's a nice one. It is a good one.

4 Q. Do you remember the name of that restaurant?

5 A. Il Grano. It is on Santa Monica Boulevard.

6 Q. Some people in Burgundy will tell you that it is a nice
7 restaurant.

8 A. No, because people from outside Los Angeles didn't know
9 this restaurant.

10 Q. I could tell you why but I won't tell.

11 So you didn't bring in any wines today, did you?

12 A. No.

13 Q. You traveled. You had come in from out of town?

14 A. Exactly.

15 Q. You didn't go down to the library and grab a couple and
16 bring it along with you?

17 A. I don't do that.

18 Q. But Mr. Kurniawan brought some wines?

19 A. He did.

20 Q. And, in fact, at that particular dinner he brought a '75
21 Ponsot, a white wine, right?

22 A. Exactly.

23 Q. And he brought a Richebourg?

24 A. It could be.

25 Q. It could be?

Dccdkur3

Ponsot - cross

1 A. I don't remember.

2 Q. And the two of you had dinner and the two of you drank the
3 wines?

4 A. We did.

5 Q. And they were good wines?

6 A. Yeah. We had, I remember, a 1955 La Tache. He brought
7 many bottles but I didn't want to drink all of them. I picked
8 only two, I think.

9 Q. Could the '55 La Tache have been at the later dinner?

10 You went to dinner twice, didn't you?

11 A. No. It was at this dinner.

12 Q. So you think it was a '55 La Tache at that restaurant.

13 (Pause)

14 And that's the dinner where he wrote down the
15 telephone number for you?

16 A. It was.

17 MR. MOONEY: Would you put up Exhibit 36-1, please.
18 And if you would highlight the little --

19 Q. This little piece of paper, is that the original piece of
20 paper that it was written on?

21 A. It is a copy.

22 Q. So you didn't write it down?

23 A. No, I didn't.

24 Q. That is not your handwriting?

25 A. Absolutely not.

Dccdkur3

Ponsot - cross

1 Q. But you saw him take this piece of paper and write down
2 that number?

3 A. I did see him doing it.

4 Q. And then he handed it to you and said, This is the number?

5 A. Exactly.

6 Q. And this, of course, was now in the summer of 2008?

7 A. It was July 19th, 2008.

8 Q. Did he tell you anything else about these numbers or what
9 they are connected to or what they had to do with?

10 A. No. He just told me this is the contact for Pak Hender.

11 Q. Did he say this is Mr. Hender's numbers?

12 A. Exactly.

13 Q. Did you ever ask him what Mr. Hender's first name was?

14 A. I was thinking that Pak was the first name at that time.

15 Q. But you didn't know at that point that Pak was the first
16 name?

17 A. I didn't know at that point that Pak would mean mister.

18 Q. But for sure is not a first name, is it?

19 A. Well, I didn't know. I don't speak fluent Indonesian.

20 Q. OK. But you later learned that Pak just means mister?

21 A. Later. When I went to Singapore in February of 2009, I
22 investigated and I learned that Pak would mean mister.

23 Q. Were there conversations at this first dinner about
24 Mr. Kurniawan buying wines directly from the Domaine?

25 A. No.

Dccdkur3

Ponsot - cross

1 Q. You don't remember any conversations to that effect?

2 A. No, we didn't talk about that.

3 Q. At that point in time, which was the summer of 2008, at
4 that point in time was Domaine Ponsot selling its wine in Asia?

5 A. Yes. For sure.

6 Q. And who was the representative in Asia at that point?

7 A. Well, we sell to seven countries in Asia. So we --

8 Q. You have a different importer in each of the seven
9 countries?

10 A. We have several importers, one or two in each country.

11 Q. So it is not an exclusive arrangement?

12 A. No. I don't give any exclusivity to anyone.

13 Q. So you -- it would have been possible for you to have
14 entered into a new distribution agreement with somebody for an
15 Asian country?

16 A. Well, I decide myself. But in some small countries, one
17 importer is sufficient, so.

18 Q. But you don't remember any conversations with Rudy about
19 buying for distribution?

20 A. No.

21 Q. This piece of paper that the numbers are written on, is
22 that a sticky pad or is it just a piece of regular paper?

23 A. Regular paper.

24 Q. And if we go back to the full sized picture again.

25 Does this accurately represent the size of it?

Dccdkur3

Ponsot - cross

1 A. No. No. The size is much smaller.

2 Q. The size is smaller?

3 A. This is a copy on a full page, but the size just is
4 surrounding the numbers.

5 Q. And where is that piece of paper now?

6 A. I guess in the hands of the FBI.

7 Q. So you gave it to the U.S. Attorney's Office?

8 A. Yes.

9 Q. The actual piece?

10 A. Yes.

11 Q. Were you surprised that he could just write those numbers
12 down?

13 A. I'm never surprised of anything.

14 Q. Did you see him look at anything else? Did he look in his
15 phone or anything?

16 A. I don't remember. I don't remember if he was looking that
17 in his cellphone or in a little booklet, I don't know. I have
18 no memory of that. But I just remember that he was writing on
19 a paper.

20 Q. You remember the paper and you remember him doing the
21 writing?

22 A. Yep.

23 Q. And that's etched in your memory?

24 A. Yes. But I don't remember if he had that in mind or if he
25 write it on a cellphone or whatever, I don't remember that.

Dccdkur3

Ponsot - cross

1 Q. It could have been any of those?

2 A. It can be, yeah.

3 Q. So where he got it or what his source of these numbers are,
4 you don't know? All you do know --

5 A. I don't really remember.

6 Q. -- is that he absolutely was the person. And so this is
7 going to be his handwriting; is that what you are telling us?

8 A. It is.

9 Q. How long after you received these telephone numbers did you
10 start calling him?

11 A. When I went back to Europe some days later.

12 Q. So within days you are calling the numbers?

13 A. What?

14 Q. Within days you are calling the numbers?

15 A. Days, yeah.

16 Q. Days. Within days afterwards you are calling?

17 A. I don't know. Maybe ten days. I don't remember. Maybe
18 five days. I don't really remember when. When I went back to
19 France.

20 Q. One of them was a fax number?

21 A. One was related to a fax machine, apparently. The sound
22 was like a fax machine, and the other one never answered.

23 Q. So nobody ever answered either of these numbers and said
24 Lion Air?

25 A. No.

Dccdkur3

Ponsot - cross

1 Q. And you have seen the exhibit that says that this was a
2 telephone number for an airline, correct?

3 A. I've seen that.

4 Q. So nobody tried to sell you any airline tickets when you
5 called those numbers?

6 A. I mean, maybe when you call an airline, it is long to
7 answer sometimes.

8 Q. But that dinner that you had with Rudy in July of 19 -- or
9 of 2008, that wasn't your last dinner with him; you had dinner
10 with him again later, didn't you?

11 A. Yes.

12 Q. A year later?

13 A. In May '09.

14 Q. Well, just less than a year.

15 (Pause)

16 And you'd asked again to get together with him. You
17 started sending him some new e-mails and saying let's get
18 together, right?

19 A. This is what I did.

20 (Continued on next page)

DCCBKURT4

Ponsot - cross

1 Q. And he said sure.

2 A. Yeah.

3 Q. He was perfectly willing to meet with you.

4 A. Absolutely.

5 Q. And so you went to another acceptable restaurant?

6 A. We went to Fourteen.

7 Q. Fourteen. Okay. Acceptable restaurant?

8 A. Very well known.

9 Q. And once again, Rudy's the one that brought the wine?

10 A. Yes.

11 Q. And this time he brought two different '73 Ponsot Clos de
12 la Roches. Right?

13 A. Exactly.

14 Q. And the two that he brought, they had different labels on
15 them, didn't they?

16 A. Exactly.

17 Q. And the two of you sampled them. Right?

18 A. We did.

19 Q. And ultimately you determined that one of the two bottles
20 that he brought to dinner was authentic. Right?

21 A. Exactly.

22 Q. And you had questions about the other one?

23 A. Well, I had no questions. I knew it was not real.

24 Q. The other one was not real.

25 A. There was no question about it.

DCCBKURT4

Ponsot - cross

1 Q. Okay. Did you ask him why he brought a bottle of your wine
2 to dinner which was not real?

3 A. No, he told me already that he would-- he's not sure that
4 both are real.

5 Q. Okay.

6 A. He said, "Let's open." And I knew by watching the labels
7 that one was authentic and the other was not already. So we
8 sampled both because it was fun to do it.

9 Q. So a year earlier, he had been the person who put up a
10 bunch of your wines that turned out to not be real for an
11 auction.

12 A. Yeah.

13 Q. And then a year later he told you he had some questions
14 about one of the bottles that he had.

15 A. Exactly.

16 Q. So he brought these two bottles. And one of them was real
17 and you drank it?

18 A. Exactly.

19 Q. And the other one was not real?

20 A. Was not real.

21 Q. And he told you at that time that he couldn't tell for
22 sure?

23 A. No, he told me that he buys wines, a lot of wines, and for
24 sure in the wines he buys he can be fooled by some providers
25 and he can buy also fake wines. And this is why he wanted to

DCCBKURT4

Ponsot - cross

1 show the two bottles, as a victim of the fakers.

2 Q. Now, over the period of time, at least from that time to
3 now, you started to get very active and very involved in trying
4 to get out and police some of the problems that are going on.
5 Is that fair?

6 A. It is. It is correct.

7 Q. And you started to learn that the wines that were coming up
8 at auctions, particularly the wines from Burgundy, that there
9 was just a high probability that these wines that were being
10 sold were fakes?

11 A. Yes, I did.

12 Q. In fact, you've stated openly, haven't you, that the vast
13 majority of Burgundy wines, at least from the, what, pre-'70s
14 that are sold are fakes?

15 A. What I say was that the wines coming from the four main
16 wineries of Burgundy. I didn't say from Burgundy.

17 Q. Okay.

18 A. Probably 80 percent of the wines from these four wineries
19 pre-1980 were fake.

20 Q. So pre-1980. And those four wineries -- Ponsot's one of
21 them I take it?

22 A. Yes.

23 Q. What are the other three?

24 A. Domaine Roumier, Domaine Rousseau and Domaine de la
25 Romanee-Conti.

DCCBKURT4

Ponsot - cross

1 Q. So if I go out and buy a pre-1980 bottle from any one of
2 those four vineyards, there's a reasonably good chance if I
3 don't take some precautions that I'll buy a fake bottle?

4 A. That's correct.

5 Q. And when you first started on this crusade to get these
6 fixed, the auction houses weren't too willing to cooperate and
7 help, were they?

8 A. I have been speaking with the head chief of the wine
9 department of Christies and Sotheby's and they were willing to
10 help.

11 Q. So they were willing to help now?

12 A. Yeah.

13 Q. So are they now not selling any of your wine without
14 letting you take a look, at least taking a look at pictures?

15 A. Now they take more precautions, but no. I can't answer for
16 them.

17 Q. Okay. And these are conversations you've had or things
18 you've been working on since about 2009. Is that right?

19 A. That's correct.

20 Q. But they haven't started saying, Well, we're going to send
21 you pictures of your wine before we sell it, have they?

22 A. Sporadically I have some requests of authentication.

23 Q. And what they said instead is, well, we'll be more careful?

24 A. Exactly.

25 Q. Have you seen any signs that they're being more careful?

DCCBKURT4

Ponsot - cross

1 A. I've seen one in Hong Kong earlier this year. They put on
2 each bottle at the auction a code that authenticate the bottles
3 from coming from the cellar of the person that was selling. It
4 doesn't mean the bottle was not fake. It means it was coming
5 from this place. So if you find it, like, fake, you know where
6 to ask about the provenance. So they try.

7 Q. And that was an auction in Hong Kong?

8 A. Hong Kong by Christies.

9 Q. It used to be New York was the center of most of the big
10 auctions, is that right, and London? New York and London?

11 A. It used to be.

12 Q. And Hong Kong is now becoming the big location. Right?

13 A. The reason is that there is no tax on wine in Hong Kong.

14 Q. And there's a lot of money coming out of Asia to start
15 buying wine?

16 A. Yeah, but other people from Europe or USA are buying also
17 in Hong Kong.

18 Q. So everybody's going to Hong Kong now to buy the wines?

19 A. Exactly.

20 Q. So that's what --

21 A. More and more.

22 Q. And the Hong Kong market's been going on for-- that isn't
23 brand new, is it? There's been auctions in Hong Kong for a
24 long time?

25 A. For the bordeaux, for the clarets, it's a long time. But

DCCBKURT4

Ponsot - cross

1 for the Burgundy, it started in the late '80s.

2 Q. And the Bordeauxs went way back?

3 A. Yeah, Hong Kong was belonging to England, and England and
4 Bordeaux has a good relation for centuries.

5 Q. In fact, Bordeaux wines are very, very popular all over
6 Asia, aren't they?

7 A. Exactly.

8 Q. The problem with the Bordeauxs in Asia dwarf the problems
9 with the Burgundys, don't they?

10 A. That's correct.

11 Q. In fact, if you want to go buy a Lafite Rothschild in Asia,
12 the chances are it's going to be hard to find one that isn't
13 fake?

14 MR. HERNANDEZ: Objection.

15 THE COURT: If you know.

16 MR. MOONEY: If he knows.

17 A. I don't know.

18 Q. One of the things that's additionally made the Asia market
19 popular is it's common in Asia, is it not, to use wine as
20 gifts?

21 A. No idea.

22 Q. And after you had your second dinner with Rudy in Los
23 Angeles in 2009, that was still a friendly sort of dinner,
24 wasn't it?

25 A. It was?

DCCBKURT4

Ponsot - cross

1 Q. You were still friendly with him when you talked to him on
2 that occasion?

3 A. Yes.

4 Q. And did you ask him who's this Pak Hendra guy? Who's
5 Mr. Hendra?

6 A. No. I said to him, "You gave me information which are not
7 really correct. So now you have to give me the real provenance
8 and you have to tell me the truth."

9 Q. And he didn't tell you any more after that?

10 A. He said, "I promise I will do that by return maybe
11 tomorrow."

12 Q. And you had discovered by that point in time that he was
13 from Indonesia. Right?

14 A. Oh, yeah, for sure.

15 Q. And you also knew that he had family that was still in
16 Indonesia?

17 A. I don't know about it.

18 Q. And you know that Indonesia can be a little bit of a scary
19 place, don't you?

20 A. I don't think so.

21 Q. So you never considered that he might have just been afraid
22 to tell you any more?

23 A. No.

24 Q. You think that might be a possibility, that he might just
25 have been afraid to tell you any more?

DCCBKURT4

Ponsot - cross

1 A. I don't think so.

2 MR. MOONEY: No more questions, your Honor.

3 THE COURT: Okay. Any redirect?

4 MR. HERNANDEZ: Very briefly.

5 REDIRECT EXAMINATION

6 BY MR. HERNANDEZ:

7 Q. Mr. Ponsot, you were just asked some questions by
8 Mr. Mooney about an opinion that you have that for all of the
9 Burgundy that's older than 1980 from the auction market from
10 four domaines-- yours, Rousseau, Roumier and Domaine de la
11 Romanee-Conti -- you think as much as 80 percent could be fake.

12 Do you remember that?

13 A. This is what I said, I'm believing.

14 Q. Okay. Do you remember when you came to that opinion?

15 A. Yeah, well, during my investigation, I was collecting the
16 most example possible of wines sold at auctions in the last 20
17 years. And I saw appearing, for example for Domaine Rousseau,
18 four times the amount of magnums produced in 1959 in 20 years.
19 Okay. You can resell the same magnum twice or three times, but
20 still it makes a lot of magnums still alive today of my Clos de
21 la Roche '59 or my grandfather's or father's one. So these
22 cannot exist. It's impossible.

23 And I make also counts -- probably my friend from
24 Domaine de la Romanee-Conti, he can say better, but they
25 produced three barrels of 1945 Romanee-Conti and if you found

DCCBKURT4

Ponsot - redirect

1 at each auction one or two bottles or magnums or things like
2 that. So that cannot happen.

3 It's just-- and on top of it, I think we have to focus
4 on what the wine is. The wine is not a beverage. The wine is
5 a product that is shared by people. I think the wine is the
6 best cement of diplomacy and friendship. And when you own a
7 bottle which is rare and good, you are tempted to drink it with
8 your friends or with your relatives rather than to sell it.

9 And today, unfortunately, I say that, from my point of
10 view, too many people are buying wines to speculate on it. And
11 this is not a good thing. It comes to the point that these
12 wines cannot be a tool, but it's a product between people.

13 Q. And you began your investigation in 2009, you said?

14 A. Well, already 2008.

15 Q. 2008/2009?

16 A. But 2009 a bit more, yeah, because I took more time to do
17 that.

18 Q. So is that then around the time where you formulated the
19 opinion, the belief, about the number of fakes in the market?

20 A. Yeah. I think at the end of '09 I had this certitude that
21 it was like that.

22 Q. And you had also testified previously that in the mid-'90s,
23 you saw a fewer amount of fake wines in the market?

24 A. Yeah. I think that the real start of the fake wines was at
25 the end of the '90s, especially the 2000 year. The thing is

DCCBKURT4

Ponsot - redirect

1 that new clients appeared on the planet. People from Asia for
2 sure, from Russia, also from America, becoming a little more
3 rich, weren't willing to go into the culture of the planet.
4 The wine has always been a means of culture on the planet. And
5 wanted to, because they were wealthy, they wanted to buy the
6 best. So they read books, they had critics that helped them,
7 and they wanted only the very best and the oldest. Because
8 everybody says that the old Burgundies are really very good.

9 So the problem is that it doesn't exist, or very, very
10 little. So some people, very smart, decided to produce old
11 bottles. So this is when it started for, for this kind of new
12 clients.

13 Q. Thank you.

14 MR. HERNANDEZ: No further questions.

15 THE COURT: Thank you very much.

16 THE WITNESS: Thank you.

17 (Witness excused)

18 THE COURT: Yes. So --

19 MR. HERNANDEZ: Your Honor, if there's no objection
20 from the government or from defense counsel, Mr. Ponsot, now
21 that he's testified, can watch the remaining proceedings?

22 THE COURT: Sure.

23 MR. HERNANDEZ: The government calls Christophe
24 Roumier.

25 MR. MOONEY: With the understanding now that he's

DCCBKURT4

Ponsot - redirect

1 released as a witness. He can't be recalled.

2 THE COURT: You have no intention to recall him?

3 MR. HERNANDEZ: No.

4 THE COURT: And do you?

5 MR. MOONEY: We do not, your Honor.

6 THE COURT: Mr. Hernandez, we'll go to 12:30.

7 MR. HERNANDEZ: Yes, your Honor.

8 THE DEPUTY CLERK: Sir, if you could step up here,
9 please. Remain standing by that chair and raise your right
10 hand.

11 CHRISTOPHE ROUMIER,

12 called as a witness by the Government,

13 having been duly sworn, testified as follows:

14 THE DEPUTY CLERK: Could you please state your name
15 for the record.

16 THE WITNESS: Christophe Roumier.

17 THE DEPUTY CLERK: Could you spell your first name.

18 THE WITNESS: Christophe?

19 THE DEPUTY CLERK: Yes.

20 THE WITNESS: C-h-r-i-s-t-o-p-h-e.

21 THE DEPUTY CLERK: Thank you. And would you spell
22 your last name.

23 THE WITNESS: R-o-u-m-i-e-r.

24 THE DEPUTY CLERK: Thank you, sir. You may be seated.

25 MR. HERNANDEZ: May I?

DCCBKURT4

Ponsot - redirect

1 THE COURT: Proceed.

2 DIRECT EXAMINATION

3 BY MR. HERNANDEZ:

4 Q. Mr. Roumier, could you tell us where you live?

5 A. I'm living in Chambolle-Musigny, a small village in
6 Burgundy, in France.

7 THE COURT: Excuse me just a minute. I want to
8 interrupt to say we're going to go to 12:30 and then resume at
9 2 o'clock.

10 THE WITNESS: Okay. Okay.

11 Q. And what do you do in Burgundy for a living?

12 A. I'm winemaker. Vine grower and winemaker.

13 Q. And for a particular domaine?

14 A. For the Domaine Georges Roumier, which belongs to my
15 family.

16 Q. Do you know who founded Domaine Roumier?

17 A. So the domaine was founded by my grandfather, Georges, who
18 married in 1924 a woman in the village whose family had this
19 estate.

20 Q. And in between your grandfather and you at the domaine, is
21 there someone in between who is the head of the domaine?

22 A. No. No.

23 Q. Okay.

24 A. Yes. Excuse me. Yes, between my grandfather and me was my
25 father.

DCCBKURT4

Roumier - direct

1 Q. And are those the only three heads of the domaine in the
2 history of the domaine?

3 A. Yes. I'm the third generation in that.

4 Q. What's the first vintage or year of wine that Domaine
5 Roumier produced that you're aware of?

6 A. Excuse me?

7 Q. Sure. The first year or vintage of Domaine Roumier.

8 A. At my knowledge, this is 1924, the first.

9 Q. All right. That's the year that Domaine Roumier was
10 founded by your grandfather?

11 A. It's the year that the estate was established under my
12 grandfather's name.

13 Q. Okay.

14 A. Yeah.

15 Q. Now, we have a map here that we're going to use that we're
16 going to ask you, if you could, just to show us, so the jury
17 understands, where Chambolle-Musigny is.

18 MR. HERNANDEZ: Can the witness step down, your Honor?

19 THE COURT: Sure.

20 Q. Can you just step down and stand right here and we'll bring
21 the map right over. You can just step around.

22 This is Government Exhibit 19-1. Mr. Roumier, the
23 jury has seen this from one of your neighbors who testified
24 just previously.

25 Could you show us where, here on this map, your

DCCBKURT4

Roumier - direct

1 village Chambolle-Musigny is?

2 A. It's exactly here. So it's to the north-- south to north.
3 We are just by the north of what we call Burgundy Coast. You
4 know, in France we have-- we don't have counties like in United
5 States. We call them department. It would be mostly
6 equivalent. And we are located in the department which name is
7 Cote-d'Or, which is larger than this, which the main city is
8 Dijon.

9 Q. Okay. And your village Chambolle-Musigny is just south of
10 Morey-Saint-Denis?

11 A. Yes, it's 1 kilometer and a half south.

12 Q. Thank you very much. You can return.

13 Now, what kind of what wines does Domaine Roumier
14 make?

15 A. So nowadays Domaine Roumier produces mainly red wines
16 because the region around us is more designed, the soil
17 quality, is better to make pinot noir, so red wines as a
18 consequence. We produce Bourgogne rouge, Chambolle d Musigny--

19 Q. I'm going to ask you to hold on there for a minute. I'm
20 going to ask you about a few particular wines. But do you make
21 Grand Cru, red Burgundy, red wine, pinot noir?

22 A. Yes.

23 Q. Do you also make chardonnay?

24 A. And one chardonnay, yes. Corton-Charlemagne, which is an
25 appellation in the south.

DCCBKURT4

Roumier - direct

1 Q. And that's a white wine?

2 A. It's a white wine.

3 Q. Now, do you make wine from an appellation called
4 Bonnes-Mares?

5 A. Yes.

6 Q. And has the domaine historically made wine from
7 Bonnes-Mares?

8 A. Yes, ever, from the beginning.

9 Q. From 1924?

10 A. Yes.

11 Q. Now, are you familiar with a domaine in Burgundy called
12 Domaine Belorgey, spelled B-E-L-O-R-G-E-Y?

13 A. Yes. This is a domaine that does not exist anymore. This
14 was, in fact, a family name, which-- this is a family from
15 Dijon who had vineyards, holdings, in Bonnes-Mares. And my
16 grandfather purchased the vineyard, a section of his vineyard,
17 in 1952.

18 Q. So beginning in 1952, Domaine Roumier made wine from this
19 family section of that vineyard?

20 A. Yes.

21 Q. And does Domaine Roumier keep a stock of older wines or
22 older wine labels in your cellar?

23 A. We have, yes, a stock of old wines. Very few old labels
24 because often they were used or destroyed by time. So we don't
25 keep them very much, or just a few samples, that's all.

DCCBKURT4

Roumier - direct

1 Q. And have you tasted all of the vintages of Domaine Roumier
2 wines in your cellar?

3 A. Some, yes.

4 Q. Okay. And what is the oldest vintage of Domaine Roumier
5 wine that you have in your cellars?

6 A. '26. 1926.

7 Q. And do you have many wines from 1924 through, let's say,
8 1959 in your cellar?

9 A. I don't have any in 1924, no. 1925. Very few '26s.
10 Something like four bottles. All together-- in Bonnes-Mares
11 you're talking about? Bonnes-Mares only?

12 Q. Yes.

13 A. This would maybe represent something like 80 or maybe
14 something like that, 80 bottles all together.

15 Q. So it's not a large --

16 A. In that period of time.

17 Q. Okay. And do you follow whether your wines are bought and
18 sold in the marketplace at all?

19 A. Yes. Yes, some were, but you don't track every bottle of
20 course.

21 Q. Of course not.

22 Now, I'd like to show you a few exhibits that have
23 already been admitted. And I'm going to come hand them to you.

24 MR. HERNANDEZ: Your Honor, may I approach?

25 THE COURT: Sure.

DCCBKURT4

Roumier - direct

1 Q. You can stay there. I'll bring them to you.

2 This is Government Exhibits 1-200, 1-208, 1-182, and
3 1-183.

4 And, Mr. Roumier, I'm going to ask you some questions,
5 the same question about all of these exhibits. I would just
6 ask that you can take each bag and just tell us the number
7 before you tell us about what's in the bag so that we know
8 which bag you're talking about.

9 And the question is, could you please examine these
10 labels and tell us whether you think these are authentic
11 Domaine Roumier labels?

12 A. May I open the box?

13 Q. You may.

14 THE COURT: Yes.

15 A. Okay. The look, they look exactly the same.

16 Q. Which exhibit are you looking at, Mr. Roumier?

17 A. I'm sorry.

18 Q. That's okay.

19 A. 183. Is that right?

20 Q. Yes, it's 1-183.

21 A. The look is really close to ours. Paper also. Maybe the
22 cut around is a little different from our labels. But, again,
23 those labels which I have never look as young as these here.
24 They look very new. And so the-- I don't know what you call
25 the cut, the edge cut on the labels, which I have found in my

DCCBKURT4

Roumier - direct

1 grandfather's office are not as clean nor as neat as these.

2 Q. So for the labels in 1-183, do you believe those to be
3 authentic labels from Domaine Roumier?

4 A. The look, yes. The rest, no. And there is a fair amount
5 of these.

6 Q. And why does it matter that there's a fair amount?

7 A. Because the production of Bonnes-Mares from Belorgey can
8 definitely exceed in the year of production three thousand
9 bottles. And it's hard to imagine that we have so many
10 remaining labels of this vintage, particularly '59, right
11 here.

12 Q. Okay. If you want to continue with the other exhibits,
13 then we can set these aside unless you have something to
14 testify about these labels.

15 A. These labels? I don't know these labels. I've never saw
16 them.

17 Q. I'm going to hold these up so the jury can see. You're
18 testifying about the white label now?

19 A. Yes.

20 Q. So this is a version of the white label that you're
21 testifying about?

22 MR. MOONEY: Is that from the same package?

23 MR. HERNANDEZ: It is.

24 Q. And what is your view on the authenticity of these white
25 labels?

DCCBKURT4

Roumier - direct

1 THE COURT: He asked you.

2 THE WITNESS: Oh, I'm sorry.

3 THE COURT: Do you think these white labels are
4 authentic?

5 A. I've never seen such labels at the estate. There's
6 something strange on them, the fact-- maybe-- maybe it's
7 something that has existed, but I have never seen it. It's
8 strange that-- we usually design the Domaine-- no, designate
9 the Domaine Roumier by my grandfather's name. So "G" does not
10 appear here. It's only written "Domaine Roumier." The initial
11 of my grandfather's first name doesn't appear, which is
12 strange.

13 Q. I see.

14 So in between "Domaine" and "Roumier" usually there
15 should be Domaine G. Roumier for your grandfather's first name,
16 Georges?

17 A. Yes. And, again the title "Domaine," as my sense, appears
18 after 1961, not before. Before this was just G. Roumier, only
19 his name.

20 Q. All right. And then if you could go just to the next
21 exhibit, which is 1-182. I'll take care of this.

22 A. So here is 182. 182.

23 Q. Can I take a sample of one of those labels from you to put
24 it up on the screen? I'll take one so they can see what you're
25 about to testify about and we'll put this on the ELMO.

DCCBKURT4

Roumier - direct

1 So you have a pack of labels in your hand. I'm going
2 to put the same one that you're looking at, and it says this is
3 Bonnes-Mares 1923 from Domaine de Romanee and then above that
4 you see there's a reference to that Domaine Belorgey that we
5 talked about previously.

6 Do you think this is an authentic Domaine Roumier
7 label?

8 A. No, again, that's very hard to believe. Again, my
9 grandfather purchased the vineyard of Mr. Belorgey in 1952.
10 And how can he make the appearing the name of Belorgey on the
11 wine that he would have produced in 1923 where it was not yet
12 established? So it is very hard to believe.

13 Q. So if I understand you, you're saying two things.

14 A. I say two things. I say, first, in 1923 my grandfather was
15 not yet established.

16 Q. I see.

17 A. Second, if ever in this time he could not produce any
18 Belorgey wine because he purchased the vineyard in 1952 only,
19 not before. Not before, yes.

20 Q. I see.

21 A. So that's not possible. Again we have-- may we go on?

22 Q. Yes, please.

23 A. 1934, same situation, except in this year my grandfather
24 was established, but he was not knowing he would one day
25 purchase the Belorgey section.

DCCBKURT4

Roumier - direct

1 Q. So in 1934 your grandfather was making wine, but not from
2 the Belorgey section of Bonnes-Mares?

3 A. No. No. He was making Bonnes-Mares from other places, but
4 not from that section.

5 Q. So an authentic wine label from Domaine Roumier from 1934
6 could not have Domaine Belorgey on it?

7 A. Yes. Same with '26 year, '27, '45, '47, '49. These are
8 very good vintages, by the way.

9 Q. So that's another observation about the vintages, about the
10 years. These are all very good years in Burgundy?

11 A. Yes. All of them.

12 Q. Okay.

13 A. There is no bad one here.

14 Q. Okay. I think for time purposes I'm not going to ask you
15 to look at these other two. Would you like to continue look at
16 these?

17 A. I want to look at this one.

18 Q. Sure.

19 A. This one is another generation. It doesn't have the
20 same --

21 Q. Sure. Let me take a sample of this one. You're looking
22 now at a 1971.

23 MR. HERNANDEZ: And, your honor, we're done just with
24 this label --

25 THE COURT: We can go another couple minutes.

DCCBKURT4

Roumier - direct

1 MR. HERNANDEZ: Okay.

2 Q. You're looking now at the 1971, and I think you were
3 pointing out that the label looks a little bit different in
4 design?

5 A. Yeah, which is not a surprise because they had been
6 redesigned in the meanwhile which is-- I think that's the
7 design of that period. Yes, it is it. This is it.

8 Q. Now, are you familiar with some of the old labels that you
9 have in the domaine? Have you seen them before?

10 A. Yes. Not all, but, yeah, I recognize this style here.

11 Q. Okay. And do you know whether the old label for Domaine
12 Roumier you had to put glue on them or whether they came
13 already with the adhesive on the back?

14 A. Excuse me?

15 Q. Sure. So to apply an old label, would your father or
16 grandfather have had to put glue or did it already come sticky
17 on the back and you peel it off?

18 A. Yes, they had to use some glue. Yes.

19 MR. HERNANDEZ: Okay. This is the point where I would
20 ask him to examine some bottles. So if you want to--

21 THE COURT: We'll start that.

22 MR. HERNANDEZ: Sure.

23 Q. If, Mr. Roumier, you could come down here to me. We have
24 some bottles here I'd like you to take a look at.

25 This is Government Exhibit 7-3. If you could show it

DCCBKURT4

Roumier - direct

1 to the jury. You just testified about this label, the 1923
2 Bonnes-Mares label. It says "Domaine Belorgey."

3 Do you have an opinion about whether or not this is a
4 wine that could have been produced by Domaine Roumier?

5 A. No. Again, in 1923 my grandfather was not established yet.
6 And if ever he had produced wine, I don't know how -- he
7 couldn't have known that he one day would purchase this
8 vineyard with this name, so no.

9 Q. All right. There's also another bottle here that's 7-6.
10 It's the same vineyard, Bonnes-Mares, and it says "Belorgey,"
11 but it's 1934.

12 Is that the same answer, this could not exist
13 either?

14 A. Same. Same answer. Same answer.

15 Q. And then the last one I'll ask you about is 7-7. This one
16 is Bonnes-Mares, Domaine Belorgey, 1945.

17 Is that the same answer because --

18 A. Same answer.

19 Q. Because 1952 is the first year that it could bear that?

20 A. Yes. Yeah.

21 Q. Very good. Thank you. You can return to the witness
22 stand.

23 THE COURT: This would be a good time then.

24 MR. HERNANDEZ: Very good.

25 THE COURT: So we're going to take a lunch break now.

DCCBKURT4

Roumier - direct

1 We'll excuse the witness. Hold on one second. Let me see
2 counsel over here.

3 (Continued on next page)

DCCBKURT4

Roumier - direct

1 (At the sidebar)

2 THE COURT: So just to make sure that the witnesses
3 know that they should not be discussing their testimony over
4 the lunch break or whatever. I don't know if they're friends,
5 for example--

6 MR. HERNANDEZ: They are.

7 THE COURT: -- with the prior witness.

8 MR. HERNANDEZ: Yeah.

9 THE COURT: So there might be an inclination to have
10 lunch together.

11 MR. HERNANDEZ: I'll let them know.

12 THE COURT: Great. Thanks.

13 MR. HERNANDEZ: Just for planning, I have maybe five
14 more minutes with this witness.

15 THE COURT: Oh, really?

16 MR. HERNANDEZ: So I think we can --

17 MR. MOONEY: -- stop him and put --

18 MR. HERNANDEZ: Depending on how long your
19 cross-examination is.

20 THE COURT: Is it only five minutes?

21 MR. HERNANDEZ: It is. It's very brief.

22 THE COURT: I would do it then. Will that help
23 dramatically?

24 MR. HERNANDEZ: I could do that. I could finish him
25 at 2 o'clock, I think, and still put Aubert de Villaine on. It

DCCBKURT4

Roumier - direct

1 depends on--

2 MR. MOONEY: We'll see how we are. I'll give you a
3 pretty good idea.

4 THE COURT: It's okay to stop then now?

5 MR. MOONEY: Yes. We're good.

6 THE COURT: Great.

7 (Continued on next page)

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DCCBKURT4

Roumier - direct

1 THE COURT: So we're going to take our lunch break
2 now. As for the jury, you'll get a little longer lunch today,
3 until 2 o'clock. And I'll see you at 2. I may be a couple of
4 minutes even later than two. I have a meeting I have to go to,
5 so just for your information.

6 (Recess)

7 (Continued on next page)

DCC6KUR5

Roumier - direct

1 (At the side bar)

2 MR. HERNANDEZ: We have two matters, your Honor. We
3 have two matters, your Honor. One matter is that Bryan
4 Kalliel, who the government expects to call this afternoon or
5 tomorrow morning, apparently was sitting in the courtroom for
6 about seven minutes during Laurent Ponsot's testimony. The
7 agents noticed him and then asked him to leave. We don't
8 expect that his testimony will have anything to do with
9 Mr. Ponsot's testimony. I have spoken to defense counsel about
10 it and they don't appear to have an objection so we're fine
11 with that.

12 MR. MOONEY: I came in the elevator by myself on the
13 way up here and when I walked in there was person in there who
14 I believed is a juror. I reflexively said, Hi. I didn't say
15 anything. She didn't say anything else either. We both
16 existed. I just want to make that known.

17 THE COURT: In a full confession when I came up from
18 Floor 8 to 12 and then 16, there were three jurors.

19 MR. VERDIRAMO: There was one standing directly behind
20 me in the security line.

21 THE COURT: Everywhere.

22 MR. VERDIRAMO: They always seem to be.

23 (Continued on next page)
24
25

DCC6KUR5

Roumier - direct

1 (In open court; jury present)

2 THE COURT: Good to see you all again. Please be
3 seated everybody. We'll continue with the government's direct
4 examination of Mr. Roumier.

5 THE DEPUTY CLERK: Sir, before we begin I would like
6 to remind you that you are still under oath.

7 THE WITNESS: All right. Thank you.

8 BY MR. HERNANDEZ:

9 Q. Mr. Roumier, I want to ask you if you know someone named
10 Don Stott?

11 A. Yes, I know Don, yes.

12 Q. How do you know him?

13 A. I know him for several years. I cannot tell you exactly
14 when I met. He has been introduced by friends when he was
15 visiting Burgundy for tasting in the cellar probably more than
16 10 years ago. Something like that. I had to see him several
17 times along the years, yes. I know him.

18 Q. Do you have in front of you an exhibit that is marked 40-2?
19 Do you see that?

20 A. I see the 40-2, yes.

21 Q. Do you recognize what that is?

22 A. Yes.

23 Q. What is it?

24 A. This is -- this was a tasting that was organized by Don at
25 his home. This was in 2007 in January, 2007 and this was the

DCC6KUR5

Roumier - direct

1 program for the tasting.

2 Q. Did you drink several older Roumier wines during that
3 tasting?

4 A. There was a magnum of '62, which is not on the list here,
5 yes.

6 Q. But other than that did you drink older Roumier wines
7 during that tasting? For example, did you taste a 1923 Roumier
8 during that tasting?

9 A. Yeah. But the 1923 is on the list.

10 Q. I understand. I am just asking just generally whether you
11 drank old Roumier wines that night?

12 A. If -- that were not appearing on this list?

13 Q. No. Forget whether they are on the list or not. Did you
14 have older Roumier wines to drink that night at all?

15 A. Yes.

16 Q. And among those was one a 1923 Roumier?

17 A. Yes. Yes.

18 MR. HERNANDEZ: The Government offers 40-2.

19 THE COURT: I will allow it.

20 (Government's Exhibit 40-2 received in evidence)

21 MR. HERNANDEZ: If we can publish that to the jury.

22 BY MR. HERNANDEZ:

23 Q. So the jury is seeing on the screen just a copy of what you
24 have there. You can leave it there, Mr. Roumier. You can
25 leave it right there if you want. On the cover what we're

DCC6KUR5

Roumier - direct

1 looking at now on the computer screen that is right in front of
2 you --

3 A. Yep.

4 Q. This is the first page of the program for that night?

5 A. That's the first page of the program, yes.

6 Q. And can just you tell us what bottle is pictured on the
7 cover?

8 A. So this picture shows Bonnes-Mares 1923.

9 Q. And if we can just turn to the next page. Just focus in on
10 the list of what was at the dinner. I am not going for ask you
11 to read the whole list of the wines, but there is a long list
12 of Roumier wines here, is that correct?

13 A. Yes.

14 Q. Do you remember tasting the one that is on the cover that
15 is 1923 Roumier?

16 A. Yes, I do.

17 Q. That is the same one you just testified earlier in the day
18 that the name began in 1924?

19 A. Yes.

20 Q. That is the same one that Belorgey doesn't appear on the
21 Roumier wines until '52?

22 A. Yes.

23 Q. Did you have any impressions when you tasted that wine that
24 was on the cover?

25 A. I made a description of that wine for the day. You know

DCC6KUR5

Roumier - direct

1 how it is difficult sometimes to evaluate an old wine two
2 bottles of the same wine can be different at a certain age.
3 The wine we're tasting old. It was not a very good wine, but
4 it was tasting old. That is all I can say.

5 Q. You also tried a 1929 as well?

6 A. Yes.

7 Q. Do you remember any impressions you had of that one?

8 A. Not clearly about this one, no.

9 Q. But given what you've testified about before about when the
10 Domaine started and when Belorgey acquired that plot by Domaine
11 Roumier, do you believe that the wine on the cover of this
12 program to be authentic Domaine Roumier wine?

13 A. No. For me it cannot be.

14 THE COURT: Mr. Mooney.

15 CROSS-EXAMINATION

16 BY MR. MOONEY:

17 Q. Good afternoon.

18 A. Good afternoon.

19 Q. When you went to this tasting at Don Stott's house, you
20 wrote tasting notes, did you not?

21 A. Yes.

22 Q. And what are tasting notes? Tell us what tasting notes
23 are.

24 A. These are descriptions because these are personal notes
25 that I take for myself just to try to remember the wine after a

DCC6KUR4

Roumier - cross

1 period of time where I could have forgotten them. These are
2 just of course descriptions of the wine, color, flavor.

3 Q. We'll get you some water.

4 A. Type of tannins, the touch, the texture the wine. So the
5 feeling that the wine provides you on the palate and so a
6 general description of the wine.

7 Q. And is that a habit that you've gotten into in writing down
8 notes when you taste wines?

9 A. Yes. It is a habit to lots of people. In fact to wine
10 passionate and who want to keep records of what they have
11 tasted.

12 Q. How many people were at this dinner that you went to at Don
13 Stott's?

14 A. I have to refer to the list. I don't exactly remember the
15 number we were.

16 Q. It was quite a few people?

17 A. Yes. Quite a few -- 11, 12.

18 Q. Did you see other people making notes?

19 A. Oh, yes. Yes.

20 Q. In fact, that is the normal thing to write down tasting
21 notes --

22 A. Yes.

23 Q. -- when you drink a fine wine, isn't it?

24 A. Yes.

25 Q. The '23 that we see here on the cover, you've testified

DCC6KUR4

Roumier - cross

1 here that that wine could not exist for a couple of reasons, is
2 that right?

3 A. Yes.

4 Q. On the night of the Don Stott's dinner, you were not so
5 sure, were you?

6 A. As I told you, tasting a wine is as always a question of a
7 feeling and you can mistake change, the aromatics can be
8 different from a bottle to another, you yourself can also have
9 different attitude to the same wine. So I wasn't sure. I just
10 wrote down -- if you have my tasting notes somewhere, I wrote
11 in French. But I said that the wine was not authentic. This
12 was my last word on it anyway because the wine had, if I may
13 say, a taste that is not the touch of tannins that we obtain in
14 Burgundy. It had a very big mouth feeling, a feeling of
15 alcohol and a richness which is not typical of our wines.

16 Q. You recall writing, Though, I cannot explain how this may
17 have occurred as the labeling of the bottle was so authentic in
18 look?

19 A. The look, yes. This is the same type of look of at the
20 bottle that I was shown this morning is very -- it looks old
21 and it looks authentic. But still again as mentioned before
22 the fact that cannot be possible on that ventage.

23 Q. So what happened is you essentially were fooled at least at
24 first by what you saw even though this is your Domaine?

25 A. I was offered a wine to taste, I tasted it, and I wrote

DCC6KUR4

Roumier - cross

1 that it was not authentic.

2 Q. So you know all the details of the winery. You know all
3 the timing of things, right?

4 A. Some. Not all details, yes, but many.

5 Q. Well, okay. I take it you were not there in 1923?

6 A. No. I swear.

7 Q. But you know as much about to the Domaine Roumier as
8 anybody?

9 A. Yes, I think.

10 Q. And yet you were not really sure when you went to the
11 tasting -- you tasted it and you said it tasted wrong, but you
12 didn't immediately recognize the bottle as being a fake, did
13 you?

14 A. I wrote it was not authentic.

15 Q. You didn't recognize the label from the outside of the
16 bottle?

17 A. Yes. I had said to the company of people who were there
18 that this type of phrase was not possible on such a wine and
19 that the vintage '23 to my opinion was not produced by my
20 grandfather because he started in '24.

21 Q. But you could understand then how somebody who didn't have
22 your depth of knowledge could be mistaken by this bottle and
23 then it is okay?

24 MR. MOONEY: Objection.

25 THE COURT: I will allow it. You can answer if you

DCC6KUR4

Roumier - cross

1 know.

2 Q. You can understand that?

3 A. I can understand that if I take your question right that
4 someone can be fooled and think it is an authentic wine.

5 Because so then if this is the question I say, Yes, because the
6 look is acceptable. But if you know the estate and the
7 history, you know that it is not possible.

8 Q. This wasn't the only bottle you drank that night, is that
9 correct?

10 A. No. There was a list of different wines.

11 Q. And you drank, what, about 13 or 14 wines to taste sound
12 about right?

13 A. Something like that. We don't drink. We taste. So it
14 means you don't swallow the wine. The way it --

15 THE COURT: It would be helpful to explain.

16 Q. Why don't you explain that. If you drank 13 bottles, your
17 tasting of those would be pretty blurry by the end?

18 A. Yes. You can understand that. So the process is that you
19 evaluate the wine by, like I said before, the color, the nose,
20 you smell of the wine and then you take a little bit of wine in
21 your mouth. You -- how you say -- swirl the wine in the mouth
22 so have a feeling of it on your palate and your tongue and then
23 you spit. You have a small bucket and you spit the wine. You
24 don't drink all of it of course.

25 Q. The majority of the wines you tasted that night you didn't

DCC6KUR4

Roumier - cross

1 have any problem with?

2 A. There were acceptable old wines, yes, but again on my
3 tasting notes I did not make -- I didn't say -- because these
4 were personal tasting notes, I would never think that they
5 would finish here. I didn't write down that Belorgey was
6 something suspicious. It was wrong for me from the beginning.

7 Q. There were a couple that you did have suspicions about out
8 of the 13 wines, right?

9 A. All those that were carrying the name Belorgey and were
10 vintages older than 1952 were wrong to me.

11 MR. MOONEY: Can we flip through the program. Let's
12 go to the next page.

13 Q. This next page that you looked at it briefly before, this
14 tells us what the courses of the dinner are going to be and
15 what wines are going to go with it, is that correct?

16 A. Yes.

17 Q. So if we look at this, there is 15 wines that are listed
18 here. Would that be consistent with what probably was tasted?

19 A. 19 wines were listed I think.

20 Q. Okay. These were all Roumier wines, right?

21 A. They were labeled with the name Roumier on them.

22 Q. In your tasting notes you identified two of these as being
23 suspect, right?

24 A. Yes. Let's say I wrote this for only two of them, yes.

25 Q. Only two?

DCC6KUR4

Roumier - cross

1 A. Because this was too much.

2 Q. If you could go to the next page, please.

3 THE COURT: So I understand. So the dinner is served
4 at a tasting?

5 THE WITNESS: Yes.

6 THE COURT: You eat the food so to speak, but you
7 don't drink the wine?

8 THE WITNESS: Yes. Yes.

9 Q. And this next list, this is a list of the people who were
10 in attendance at the dinner?

11 A. Yep.

12 Q. Was everybody there?

13 A. Yes.

14 Q. Your name got special treatment. Your name is on the wine?

15 A. My grandfather's name.

16 Q. So if we can go to the next page. I think that is it.?

17 MR. MOONEY: You can take that one down.

18 If we can go to the Elmo, please.

19 Q. Mr. Roumier, I am showing you a page from government's
20 Exhibit 1-328. I will represent to you that this is one of the
21 numerous notebooks kept by Mr. Kurniawan where he puts tasting
22 notes. And would you take a quick note -- do you recognize the
23 wine that he is tasting there?

24 A. So apparently this is Bonnet Roumier 1985. I don't -- I
25 cannot read what is written after that.

DCC6KUR4

Roumier - cross

1 Q. Hard to read the writing. Does that -- would this be about
2 the right size for normal tasting notes?

3 A. Yes. I am sure. I am much shorter, I know.

4 Q. This is consistent with what somebody does when they are
5 writing down after they have been tasting?

6 A. Pretty much, yes.

7 Q. I don't know if you can read it. Does it look like it is
8 consistent with what that wine should be?

9 A. Excuse me? Can you repeat the question?

10 Q. Does this look like a consistent description of what you
11 would expect the '85 Roumier to be?

12 A. Again, tasting a wine is a personal feeling so the feeling
13 of one person differs with mine. So these are words that I
14 would -- some of them, which I see here I could use to describe
15 a wine, yes.

16 Q. You know right in the center he called it excellent?

17 A. Yes, I see that.

18 Q. Would that be consistent with the '85 Roumier?

19 A. It is a very good wine and a good vintage.

20 THE COURT: So wouldn't it be helpful to know what
21 everything says there for the jury?

22 MR. MOONEY: I think it would.

23 THE COURT: Can you read it, or can you make it out?

24 THE WITNESS: If you can't, that's fine.

25 MR. MOONEY: Yes.

DCC6KUR4

Roumier - cross

1 Q. Does it look like ruby color?

2 A. Ruby color, yes.

3 Q. But would that be consistent with what would you find in a
4 '85 Roumier, a ruby color?

5 A. Yes.

6 Q. One of the things you do when you tasting the wine is you
7 look at the color first?

8 A. Generally speaking, yes.

9 Q. Starting off by describing the color would be appropriate
10 in the tasting?

11 A. Yes.

12 Q. And then do you sometimes swirl the wine?

13 A. Yes.

14 Q. What is the purpose of swirling the wine inside the glass?

15 A. The main purpose is so that you give the wine larger
16 surface inside the walls of the -- the wall of the glass to
17 evaporate some aromatics.

18 Q. So it is not to prove you are not too drunk to drink it?

19 A. No.

20 Q. When you get that air into it is that going to help it come
21 alive?

22 A. Yes. How do you say? So swirling of the wine into the
23 glass it helps the wine to take some oxygen, which is another
24 good reason to do that above all in a young wine because a
25 young wine needs more oxygen to develop flavor.

DCC6KUR4

Roumier - cross

1 Q. And then is it common at that point to smell the wine?

2 A. Yes.

3 Q. And you haven't put any in your mouth at that point?

4 A. No. Generally speaking people, me included, prefer to
5 first have the impression of the nose before they start to
6 taste.

7 Q. Eyes, nose, and then finally the mouth gets to enjoy the
8 flavor?

9 A. Yes.

10 Q. And then when you taste it, when it comes to your mouth is
11 one of the things you start to do is to describe the other
12 tastes, the things that it reminds you of?

13 A. Yeah. Because the same logically the aromatics that you
14 have on the nose are those that you will find on the palate as
15 well because of tannins, which do not express flavors by
16 themselves, the combination makes so that the feeling in mouth
17 differs slightly from this on the nose. So it is interesting
18 to have the progression and go step by step.

19 Q. There is a description in here looks to me like fruits,
20 spices and coffee. Do you see that before "excellent"?

21 THE COURT: Where is that? On what line?

22 A. I see spices.

23 MR. MOONEY: Of the description starting near the end
24 of the fourth line down of the body.

25 Q. Do you see that.?

DCC6KUR4

Roumier - cross

1 A. Spices and coffee, no?

2 Q. Toffee. I guess it could be toffee?

3 A. Yeah.

4 Q. And taking notes are primarily a personal thing, right?

5 They are written for you to keep yourself?

6 A. Yes. Except for professional people who it is their job.

7 Q. Some people publish them and make money?

8 A. Some.

9 Q. Sometimes you may share them with a friend or somebody

10 else?

11 A. Again, it is our personal feelings. You know, if you go to

12 a museum and watch for a nice paint, you can exchange with your

13 friends as well. So it is part, yes, of the pleasure to taste.

14 Q. You've met Mr. Kurniawan, have you?

15 A. Yes.

16 Q. And in fact you have had wines with him before, haven't

17 you?

18 A. Yes. Oh, before, no. After.

19 Q. After --

20 A. After, yes.

21 THE COURT: So what is the date? When did you first
22 meet him if you can remember?

23 THE WITNESS: I met him at San Francisco. Cote d' Or,
24 an event in San Francisco.

25 Q. When was this?

DCC6KUR4

Roumier - cross

1 A. 2008.

2 THE COURT: That is the first time you met him?

3 THE WITNESS: Yes.

4 Q. Do you recall having a bottle of wine with him and signing
5 the bottle?

6 A. I don't remember that detail, no. I know I had several
7 wines with him, yes.

8 MR. MOONEY: If we can show this just to the witness,
9 then.

10 Q. Do you see that?

11 A. Yes.

12 Q. Do you recognize that as one of your bottles?

13 A. Yes, definitely.

14 Q. What wine is that?

15 A. Bonnes-Mares 1934.

16 Q. Does that have your signature on it?

17 A. Yes.

18 Q. Do you remember signing that bottle now?

19 A. I don't remember signing it, no.

20 Q. Any doubt in your mind that that is your signature?

21 A. It is mine.

22 MR. MOONEY: I don't think we marked this with a
23 number. We would designate this E-1 and move its admission.

24 THE COURT: I will allow it.

25 (Defendant's Exhibit E-1 received in evidence)

DCC6KUR4

Roumier - cross

1 MR. HERNANDEZ: I ask now that the jury be able to see
2 it.

3 BY MR. MOONEY:

4 Q. So you don't remember anything about this wine?

5 A. No. I could not make the description now. At this party I
6 didn't take notes.

7 Q. Do you see the label near the neck of the bottle? Can you
8 read what that says?

9 A. What do you mean the neck label?

10 Q. No. Below the vintage there is another label that is on
11 there.

12 A. Yes.

13 Q. That is not a label that your vineyard put on there?

14 A. No. No. This label that used by the sommeliers to know
15 whose bottle.

16 Q. What do we see on that label?

17 A. Here --

18 MR. MOONEY: We have the colored one. That is so much
19 nicer.

20 THE COURT: Do you have a question pending?

21 MR. MOONEY: Yes. Well, I wanted him to read the
22 label just under the 1937, the white label.

23 THE COURT: 1934?

24 A. Roumier Montrachet.

25 Q. We can clearly see your signature and it says something.

DCC6KUR4

Roumier - cross

1 Can you read what that says above your signature?

2 A. I cannot read. I cannot read what it says.

3 Q. Very good. Thank you.

4 MR. MOONEY: See if we can expand that a little better
5 around the signature.

6 A. It says maybe for Rudy.

7 Q. That is as good as we're going to get. Does that help at
8 all?

9 A. To Rudy.

10 Q. It would appear then this is a bottle that was supplied by
11 Mr. Kurniawan that the two of you drank on some occasion, is
12 that right?

13 A. We were more than two. We were a group of people around
14 this wine, yes.

15 Q. And you memorialized -- did he ask you to sign the bottle?

16 A. Certainly. I don't do that spontaneously. So, yes.

17 Q. You just don't take every bottle and start signing it?

18 A. No.

19 Q. He asked you to sign this bottle and you agreed to sign the
20 bottle?

21 A. Yeah.

22 Q. And that is not an uncommon thing? People will very often
23 memorialize occasions by writing their names on the bottles?

24 A. That is something that can happen with special bottles
25 drunk in special conditions.

DCC6KUR4

Roumier - cross

1 Q. It is a way for people to remember the occasion?

2 A. Yes, I guess.

3 Q. You've seen people like to keep the bottles very often
4 because they remind them of the occasion that they had?

5 A. Yes. Yes.

6 Q. And especially when you have got tasting notes of it and
7 you have got the bottle and you can take those things back and
8 you can go back and really enjoy the experience?

9 A. But again I did not take notes on this specific day of the
10 tasting here. This was a different time than in this program.

11 Q. I understand. This was not the stock dinner?

12 A. No.

13 Q. This was something entirely different?

14 A. This was in San Francisco.

15 Q. Now, the Domaine Roumier started with your grandfather in
16 the '20s?

17 A. 1924.

18 Q. Was '24 the first -- is that the first year you show that
19 they had wine or is it the first year that they owned the
20 vineyard?

21 A. This was the year of marriage my grandmother -- my
22 grandfather married my grandfather. The estate, so the
23 vineyard, where belonging to my grandmother's family so they
24 receive as a dowery.

25 Q. So the vineyard was there in the family?

DCC6KUR4

Roumier - cross

1 A. Yes.

2 Q. Then your grandfather comes in this '24?

3 A. Yes.

4 Q. So it becomes Roumier in '24 because your grandmother would
5 have been named something else, right?

6 A. Yes. Exactly.

7 Q. Wines that were produced, wines that had been released
8 prior to that would be under a different name?

9 A. A different name.

10 Q. Do you know what that name would be?

11 A. It was carrying the family name, which is difficult. I
12 will have to spell it. Quanquin, Q-u-a-n-q-u-i-n.

13 Q. And your grandfather continued to run the vineyard for a
14 good number of years?

15 A. Yes. My grandfather passed away in 1965. My father
16 started to work with my grandfather in 1954 about and retired
17 in 1990 and I started to work with my father in 1981.

18 Q. So your grandfather owned and ran the vineyard through the
19 World War II period?

20 A. Yes.

21 Q. And the World War II period was a very difficult period
22 time in Burgundy, was it not?

23 A. It was. So was also the '20s and '30s as to wine producer.
24 The wine was selling for little money and the war was also a
25 difficult time, yes. That's right, but wine was selling for

DCC6KUR4

Roumier - cross

1 little money.

2 Q. There was a period of time from 1999 up until 1395, which
3 Burgundy was actually occupied, isn't that right?

4 A. Yes.

5 Q. And during the occupation there was the nazis actually put
6 someone in Burgundy who was in charge of everything that was in
7 charge that was supposed to go on with wines in Burgundy?

8 A. Yes. I have been told.

9 Q. You've heard this?

10 A. Yes.

11 Q. You know these histories?

12 A. Yes.

13 Q. You also know that during that period of time lots of wines
14 that people had when they saw what was happening, they hid the
15 wines?

16 A. Yes. Some people did that, yes.

17 Q. Because they knew that one of the first things that was
18 going to happen is that the Germans were going to start asking
19 for the wine?

20 A. Yes.

21 Q. And in fact they did, didn't they?

22 A. Not in every place. I heard stories like this. I heard
23 that some nazis have taken some bottles, but I never heard of
24 restriction. I never heard of total destruction of bottles.

25 Q. But Roumier wine was taken by the Germans?

DCC6KUR4

Roumier - cross

1 A. No.

2 Q. No, was it not taken?

3 A. No. My grandfather had been -- how do you say that? -- had
4 been gassed during the first world war so he was not in
5 enrolled during the second and he remain at home. So we didn't
6 have German people at home.

7 Q. So he stayed on the Domaine?

8 A. Yes.

9 Q. But he was still answering to the wine fuhrer?

10 A. To the?

11 Q. The to the German that was in charge of the wine in
12 Burgundy, right?

13 A. Probably. I don't know the exchange. I don't know the
14 story of the exchange here.

15 Q. And during World War II you weren't allowed to sell any
16 wine to the United States, were you?

17 A. No.

18 Q. You weren't allowed to sell any wine to the UK?

19 A. No. Probably not.

20 MR. HERNANDEZ: Objection. Although interesting,
21 relevance.

22 THE COURT: I will allow a little latitude.

23 MR. MOONEY: Well, I am getting there.

24 Q. So isn't it true that lots of strange things began
25 happening with regards to how things were bottled and what was

DCC6KUR4

Roumier - cross

1 put together. There were bottles coming out of the vineyards
2 at that point in time that represented to be things that they
3 weren't?

4 THE COURT: If you know.

5 Q. If you know.

6 A. I am afraid I don't understand exactly what you mean.

7 Q. I mean, in order to meet the demands that the Germans were
8 making, wasn't it common particularly in Burgundy for the
9 vineyards to put together all sorts of false and phony bottles
10 and things to send over to the Germans?

11 A. I don't know. I don't know.

12 Q. That's fair. You weren't there.

13 A. I wasn't there. I've had some reports from the family, but
14 not this sort of detail.

15 Q. Thankfully somehow your father got through that period
16 okay, or your grandfather got through that period okay.

17 A. Uh-huh.

18 Q. And continued to thrive afterwards.

19 Now, I think we've talked about the fact that the
20 things are informal in terms of the records of the vineyards.

21 Isn't it also --

22 THE COURT: Wait. What have we talked about?

23 Q. You said that your records were kind of informal during
24 your early period, or did I mistaken that for somebody else?

25 A. You mean the family records?

DCC6KUR4

Roumier - cross

1 Q. Yes. The records of the winery.

2 A. Yeah. There was almost nothing.

3 Q. So you can't go back today and, you know, say in 1947 we
4 produced X amount of bottles of wine?

5 A. No. I don't have real numbers.

6 Q. And, in fact, during that period of time the wine that was
7 kept in the estate and not sent out of the other places, the
8 bottles were not even labeled, were they?

9 A. No. They were naked bottles.

10 THE COURT: Which time period are we talking about?
11 What is your question?

12 Q. During the '30s, '40s, '50s and even the '60s, '70s and '80
13 any bottles kept in the estate are not labeled?

14 A. Yes, exactly. The habit is to put the label when you ship
15 the bottle out of the estate.

16 Q. So if you took a 1945 Bonnes-Mares and released it to
17 somebody in 1985, you would put a label on it at the point in
18 time that you released it?

19 A. Yes.

20 Q. And as a result some confusion gets created because you see
21 different labels on the same bottles or on the same wines?

22 A. This may happen.

23 MR. MOONEY: Turn the Elmo back on again.

24 Q. This is from 142 I think it is. Do you see there two
25 bottles of the 1962 Bonnes-Mares?

DCC6KUR4

Roumier - cross

1 A. Yes, I see it.

2 Q. And two very, very different labels, right?

3 A. Yes.

4 Q. Then another example from the that same exhibit. So we
5 have two '71s there and then a different '71 over there, is
6 that right?

7 A. Yes.

8 Q. Is that correct?

9 A. Yes. Absolutely.

10 Q. So there was --

11 A. Except -- excuse me to interrupt you. If you can show the
12 first photo.

13 Q. The first one? Sure.

14 THE COURT: Are these in evidence?

15 MR. MOONEY: Yes.

16 THE COURT: So we can show this to everybody?

17 MR. MOONEY: Yes, sir. We should be showing these to
18 everybody.

19 A. The left label is not ours.

20 Q. Okay.

21 A. It is not my estate.

22 Q. Does that mean that bottle is a fake, or does it mean it is
23 somebody else?

24 A. I don't mean it is fake. I mean that it is not a label
25 that is ours. It has been labeled at the estate.

DCC6KUR4

Roumier - cross

1 Q. So the one that would be labeled by the estate is the one on
2 the right?

3 A. Yes.

4 Q. The one on the left?

5 A. It has the look and it is -- it has a look of our label on
6 the right, yes.

7 Q. Now, one of the things you would also sell out wine in
8 barrels?

9 A. Yes.

10 Q. And they would then be bottled?

11 A. Yes.

12 Q. Would that be an explanation?

13 A. It could be an explanation to that.

14 Q. So we can end up with here the 1962 Bonnes-Mares with two
15 very different looking bottles --

16 A. Yes.

17 Q. -- because of that activity?

18 A. Yes.

19 MR. MOONEY: No more questions, your Honor.

20 THE COURT: Any redirect?

21 MR. HERNANDEZ: No, your Honor.

22 THE COURT: Thank you very much, Mr. Roumier.

23 MR. HERNANDEZ: The government calls Aubert de
24 Villaine.

25 AUBERT DE VILLAINES ,

DCC6KUR4

Roumier - cross

1 called as a witness by the Government,

2 having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 THE INTERPRETER: Isabelle Duchesne, French
5 interpreter.

6 THE DEPUTY CLERK: Are you the certified in the
7 Southern District?

8 THE INTERPRETER: I am federally approved in the
9 Southern District.

10 BY MR. FACCIPONTI:

11 Q. Good afternoon, Mr. De Villaine.

12 A. Good afternoon.

13 Q. If you want to move your seat a little forward and perhaps
14 pull the microphone closer to you so we can hear you better
15 when I ask you questions.

16 Where do you live?

17 A. I live in Burgundy.

18 Q. That is in France?

19 A. It is in France.

20 Q. What do you do for a living?

21 A. I make wine. I am what you call in France a vigneron,
22 winemaker.

23 Q. Do you work at a particular winemaking entity in Burgundy?

24 A. I am the co-manager the do man Domaine de la Romanee-Conti.

25 Q. I am going put up on the screen that has been labeled

DCC6KUR4

De Villaine - direct

1 Government 19-5.

2 MR. FACCIPONTI: Mr. Platt, can you enlarge the upper
3 right-hand quadrant of that map and if we can highlight
4 Romanee.

5 Q. Is it fair to say that Burgundy is one of the great
6 winemaking regions in the world?

7 A. Burgundy has been -- Burgundy is it a stretch of 50
8 kilometers long. It had been producing wine since 2000 years
9 and building a type Montrachet that is quite unique in the
10 world. That is where you find is most extreme. In this
11 stretch you have 1,247 parcels of land, each with name, each
12 with a designation, and been producing wines for many
13 centuries. And the -- this -- between all these parcels you
14 have a hierarchy that has been established since centuries or
15 so where you have the top and bottom you have and make the very
16 good wines, but not regarded as the Grand Cru.

17 Q. The Grand Cru are considered the best wines?

18 A. The Grand Cru represent 1 percent of the world production.
19 It is very few -- few villages. You don't find them in all the
20 villages. They are regarded as something extremely precious
21 where the great wines of this world are made and of course have
22 prices on the market that are quite high.

23 Q. Can you tell us a little bit about the history of the
24 Domaine de la Romanee-Conti?

25 A. Domaine de la Romanee-Conti you may start with the Conti

DCC6KUR4

De Villaine - direct

1 which is a vineyard of around 4 acres and a half, 1 acre 50,
2 which has been delineated since at least the 13th century
3 because that is when you find the first map of this vineyard.
4 At the time it was established by the monks. You know the
5 monks were extremely -- extremely -- important in the beginning
6 of Burgundy. The monks, the church they were given a lot of
7 land by the dukes of Burgundy and nobles and they produced --
8 they were the ones who really started the kind of production
9 that we practice today. They are our founding fathers.

10 And so the monks had this vineyard, which they sold in
11 the 13th Century to a family, and this family kept the vineyard
12 for three -- I think 300 years and then gave it fame, and
13 called it at one point Romanee. We don't know exactly why.
14 Something related to Roman occupation or another. We don't
15 really know. They called it Romanee.

16 Then they sold it to a very important person of the --
17 of the times, the Francois de Conti, who was the cousin of
18 Louis XV, who was the king of France at the time and who bought
19 this vineyard for deeds at a very exaggerated price because he
20 gained a very high reputation. He kept it for his own
21 consumption. And of course he didn't keep -- he didn't keep it
22 for very long because the Revolution arrived and he -- you
23 know, the properties of the church and of the nobles were
24 confiscated and sold and so it was sold and went to two
25 hands -- three hands in 1869 by ancestor, who bought it. At

DCC6KUR4

De Villaine - direct

1 the time he was constituting an important estate and it
2 remained since in my family.

3 And of course I was always been the top wine of the
4 estate where we make other Grand Cru like that La Tache,
5 Richebourg. Names that were known by the collectors.

6 Q. So just so there is no confusion there is an Appellation
7 called Romanee-Conti and the domaine itself, which makes wines
8 from other Appellations besides Romanee-Conti is also called
9 Romanee-Coni?

10 A. As I said is delineation that exists since at least since
11 13th Century and is 4 acres and a half and that is all and the
12 Domaine Romanee-Conti represents an estate of about 20, 28
13 hectares or about 60 acres.

14 Q. So just so you are not confused when I say Romanee-Conti, I
15 am just referring to the vineyard. When I say domaine, I am
16 referring to the whole Domaine Conti.

17 A. Uh-huh.

18 Q. How many -- what Grand Cru wines does the domaine make?

19 A. Makes seven Grand Cru. Romanee Conti and La Tache and
20 these two are fully owned by us. They are most vineyards in
21 Burgundy are shared by certain number of growers more or less.
22 These two are owned only by us. And then we have Richebourg
23 part of Richebourg, Grands Echezeaux. To give you an example
24 is a Grands Echezeaux is a shared by 10 different growers. We
25 have about half of it and the rest is shared by half other

DCC6KUR4

De Villaine - direct

1 growers. It is the same pattern. Grands Echezeaux in the
2 white part of the Burgundy, which is more south. Plus one
3 other Grand Cru in another village, Corton, which we have since
4 a short time.

5 Q. Does the domaine make any wines that are not Grand Cru?

6 A. No. We produce a very small quantity of Grand Cru. That
7 is a certain way of making wines. It is 98 percent of our
8 production.

9 Q. What is your personal history with the domaine?

10 A. I have -- the beginning for me was living in Burgundy. It
11 has since the beginning that I've always heard of as something
12 extremely precious and something that the family had to keep at
13 any price, but I wasn't very close to the land. And we were in
14 the -- I was born in 1939 and when I was a young, the Burgundy
15 was still in the state of very difficulties. A lot of young
16 people in Burgundy were going -- were doing studies of other
17 kind and not staying in the vineyards. Myself, that was my
18 case. It -- I did completely different studies. But when I
19 was 25, I decided that that is what I wanted to do. So I -- I
20 asked my father and his partner if I could be accepted and they
21 did and so I started the business from scratch working in the
22 vineyards. At the same time some of the courses I learned and
23 learned which was I think precious for me to start in this and
24 I was named co-manager in 1974 and since I've been a
25 co-managing.

DCC6KUR4

De Villaine - direct

1 Q. You referred to difficulties at the domaine had in the
2 1930s. Was one of those difficulties the phylloxera insect?

3 A. That was a state in the 19th Century and then in 1880 the
4 phylloxera arrived and it started from the south of France and
5 went up and destroyed all the vineyards on its way. It was a
6 terrible bug, an insect that is extremely dangerous for the
7 vineyards and destroyed the vineyards without possible defense
8 except injections, which everything did for a while but it was
9 something that was extremely complicated to practice and to
10 practice on a large scale. So fortunately the Americans sent
11 us the insect but they sent us also the remedy?

12 THE COURT: The cure?

13 (Continued on next page)
14
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25

DCCBKURT6

de Villaine - direct

1 BY MR. FACCIPONTI:

2 Q. So the Phylloxera, that came from the United States
3 originally?

4 A. Originally, yes.

5 Q. And the ultimate remedy was American grape roots which were
6 resistant to the insect?

7 A. It was noticed that some American kind of vines were
8 resisting to Phylloxera. So some smart people and scientists
9 realized that if we grafted our vine, our kind of vine, on this
10 old stock, we could make wine with the same taste and without--
11 with the vines not being attacked by Phylloxera.

12 So that's what happened. Vineyards were little by
13 little all replanted that way, except very few. And the last
14 one left was the Romanee-Conti, where Dominique Conti had so
15 much respect, knew that the owners, my family, couldn't--
16 couldn't bend to tear it out, to replant. So they kept the
17 vineyard with injections of carbon disulfide until the second
18 World War when this stuff could not be found anymore and the
19 vineyard became weaker and weaker. And at the very end, when
20 it was torn out in '45, the production was six-- two barrels,
21 six hundred bottles in all.

22 So that was the time when they decided to kill it out
23 and replant it.

24 Q. So the 1945 vintage of Romanee-Conti was only six hundred
25 barrels together?

DCCBKURT6

de Villaine - direct

1 A. Sorry? I didn't...

2 Q. Six barrels?

3 A. Two barrels.

4 Q. Two barrels?

5 A. Two barrels, six hundred bottles.

6 Q. Six hundred bottles. Sorry.

7 As a result, are there many bottles left of 1945
8 Romanee-Conti out there?

9 A. We have -- at the domaine we have no more bottles of 1945.
10 No more. It's-- it was both a very small in quantity vintage,
11 but also a great vintage. A great vintage. It was also --

12 Q. Why was it a great vintage?

13 A. Because the conditions, the climatic conditions, were very
14 good. You know, in Burgundy, we have-- it's a region that is
15 quite north. The grape variety always make the greatest wines
16 in difficult conditions always. And so in Burgundy very often
17 the season is difficult. You have rain, storms, sometimes
18 drought. And it is not easy.

19 And 1495 was a year when all the conditions were very
20 good. And so all of the vines produced a great vintage, of
21 course, but with a very small quantity with Romanee-Conti.

22 Q. So it's fair to say any bottle of 1945 Romanee-Conti is
23 rare, hard to find, and very valuable?

24 A. It is-- it is extremely rare. I would be surprised today
25 that you still have a bottle existing, although you find some

DCCBKURT6

de Villaine - direct

1 in some auction sales, which is always surprising. But if a
2 real bottle is on the market, it of course would be at the
3 very, very high price because nothing is more rare and more
4 looked for than a bottle of Romanee-Conti '45.

5 Q. And, generally speaking, are wines from older vintages rare
6 and hard to find? Are wines from older vintages rare and hard
7 to find?

8 A. Oh, yes, they are very hard to find. All the winemakers,
9 not only Romanee-Conti, but the others, of the first part of
10 last century exist by -- are very smaller. It's a question of
11 a few bottles left. But the Romanee-Conti is especially--
12 especially rare.

13 Q. Let's turn to a different subject now.

14 Are you familiar with the term "reconditioning"?

15 A. Hmm?

16 Q. What is reconditioning?

17 A. Reconditioning means to take bottles that have-- old
18 bottles, old bottles that have some problem. Some problem that
19 the person who has the bottle wants to be repaired.

20 So there are several levels of reconditioning. If it
21 is-- if it is only the label that is damaged, then you would
22 replace the label. But if it is the wine that has had a
23 problem, for instance if the cork has let the wine go so what
24 they call the ullage, the distance between the wine and the
25 cork, has become very important, then it would be good to

DCCBKURT6

de Villaine - direct

1 refill the bottle with the same wine, of course, in order to
2 allow the wine to last for a longer time.

3 So that would be reconditioning, complete
4 reconditioning.

5 Q. Where does the reconditioning occur?

6 A. When?

7 Q. Where.

8 A. Where? Only at the-- reconditioning is something that we
9 have done for customers who are familiar. And we stopped
10 something like 15, 20 years ago because we realized -- I
11 realized that all the bottles that were given to us to do that
12 in fact were-- it was for being resold. In other words, for
13 speculation. And when you are a grower, you make wine for
14 being drunk and not for speculation. So I stopped-- I stopped
15 reconditioning.

16 I'm sorry, did I complete your question?

17 Q. That is correct.

18 When you did recondition, what would you do with the
19 original label and bottle and the cork? Would you replace all
20 of that?

21 A. The bottle is refilled. I mean, it's the same bottle. If
22 you do a reconditioning, a complete reconditioning is refilling
23 the bottles, you need a certain number of bottles and use one
24 bottle to refill the others. That's why we never did it for
25 one bottle, but for several bottles. And you sacrifice one

DCCBKURT6

de Villaine - direct

1 bottle to refill the others.

2 Q. When you reconditioned those several bottles, would you put
3 new labels on them and give them new corks and capsules and all
4 that?

5 A. Yes. Yes.

6 Q. I'm going to hand you three bags of evidence that have
7 already been admitted. It's Government Exhibits 175-- I mean
8 1-175, 1-180 and 1-176.

9 Let me ask you to look at Government Exhibit 1-175
10 first. I just want to open up and take a look at these
11 materials that are there.

12 MR. FACCIPONTI: If we could have the ELMO, please.

13 Q. Do those appear to be labels for Romanee-Conti in front of
14 you?

15 A. Mm-hmm. Mm-hmm.

16 Q. And specifically do they appear to be labels for very old
17 vintages?

18 A. Mm-hmm.

19 Q. What can you say about some of these vintages that you see
20 here?

21 A. About the vintages, they are all great vintages. If I can
22 say, first thing that I would say is that for me it is--
23 numbfunding (sic)? It's extraordinary to see the number of
24 labels of wines that have completely disappeared, that we don't
25 ever not even have any bottle left at the domaine. And to see

DCCBKURT6

de Villaine - direct

1 labels like this, it's quite-- quite incredible.

2 The vintages are great vintages, '99, '95-- or, I'm
3 sorry, 18-- 1915. 1915, 1919 vintages, great vintages.

4 Q. Do you keep old labels at the domaine?

5 A. We keep labels as long as we have the wines. I only keep--
6 but, you know, if we had-- unfortunately, we don't have any
7 more. If we had some bottles of these vintages, we would keep
8 a few labels just for-- but they would never be for sale, you
9 know. They would be sort of family treasures that we would
10 drink in families sometimes.

11 Q. So is it surprising to you that you see-- do you have
12 labels at the Domaine for these vintages anymore?

13 A. No. No, we don't have any more.

14 Q. So is it surprising to you to see a stack of several dozen,
15 if not several hundred, labels for vintages that probably don't
16 even have wines that exist anymore?

17 A. It is-- it is more than extraordinary. If it is for a
18 movie or whatever.

19 Q. You said it's for a movie or something? Like a movie
20 proper?

21 A. And, you know, in these labels we never had any-- we never
22 had these self--- self-adhesive, self-adhesive labels.

23 Q. So the Domaine has never made self-adhesive labels?

24 A. No, never.

25 Q. And do you see in there labels for a 1945 vintage of

DCCBKURT6

de Villaine - direct

1 Romanee-Conti?

2 A. They are-- they are well quite copied.

3 Q. Do you see --

4 THE COURT: Wait. Did you see they are quite well
5 copied?

6 THE WITNESS: Copied.

7 Q. Do they look similar to what the Domaine's labels looked
8 like during that time period?

9 A. Yes, very much. Very much so. Very much so.

10 Q. Would you say there's about maybe 20 or 30 1945
11 Romanee-Conti labels in your hand?

12 A. I never had that many in my hands.

13 Q. If you could just put these to the side and look at
14 Government Exhibit 1-180. It's for a vintage called-- you're
15 go to go have to help me with this -- Les Gaudichots?

16 A. Les Gaudichots. Let me see. There's the elastic.
17 Les Gaudichots '29, is it?

18 Q. 1899.

19 A. 1899.

20 Q. What is this wine?

21 A. This is Les Gaudichots was a Premier Cru, what they call
22 Premier Cru, until 1931 when it was attached to La Tache. And
23 La Tache and Les Gaudichots became La Tache. So this is a
24 label that doesn't exist anymore. It existed in 1899, of
25 course, but it doesn't exist anymore. And obviously that kind

DCCBKURT6

de Villaine - direct

1 of wine, if it existed, would be extremely looked for by
2 collectors because it's something, I mean, extremely, extremely
3 rare.

4 Q. Have you ever seen an 1899 label for Les Gaudichots?

5 A. Never. Never. Frankly, never.

6 Q. Finally the exhibit there is Government Exhibit 1-176.

7 What is the-- what is the vintage-- what is the wine for these
8 labels?

9 A. Your question is?

10 Q. What wine is this for?

11 A. This is for-- this is for Richebourg Vieux Cepages. I told
12 you the story about Romanee-Conti being kept as an old vineyard
13 before Phylloxera, the way the vineyards were attended before
14 Phylloxera before 1945. I told you about this.

15 Maybe I should just add to my explanation that the
16 vineyard of Romanee-Conti, like this small vineyard of
17 Les Gaudichots, was something like nobody really knew. Maybe
18 three, four hundred years old. Because the vines were
19 reproduced. When a vine had given fruit for 30, 35, 40 years,
20 it will be-- it would be buried. You would make a little ditch
21 at the bottom of the vine and bend the vine in the ditch and we
22 cover with dirt. And you will have one, two or three shoots
23 restarting new vines.

24 And so the vineyards were reconstituted permanently
25 like this for hundreds of years. And of course when the

DCCBKURT6

de Villaine - direct

1 Phylloxera arrived, this was impossible. And the Richebourg --
2 there was a small part of Richebourg which was kept exactly the
3 same way. And so this little part of Richebourg produced until
4 1945 also very small quantities of wine. It was, depending on
5 the vintage, two to three hundred bottles per year.

6 Q. So in 1945, perhaps only two or three hundred bottles of
7 Richebourg old vines was made?

8 A. Mm-hmm.

9 Q. And is there anything striking about a label that perhaps
10 is printed for a 1945 -- if we look at the screen -- 1945
11 vintage on one side and a 1942 vintage on the other?

12 A. No comment.

13 Q. Based on everything you've seen, do you have any conclusion
14 about the authenticity of these labels?

15 A. I know it's-- those are labels, printed by a printer, but
16 they have never been-- they have never been our labels. And
17 they are not-- they are a fantasy. They are not our labels.

18 Q. Has the domaine ever printed its labels on laser printer?

19 A. Has a domaine?

20 Q. Does the domaine print its wine labels on a laser printer?

21 A. No. No, no. No.

22 Q. And has anyone named Rudy Kurniawan ever been authorized to
23 print labels for the Domaine?

24 A. No. No.

25 MR. FACCIPONTI: We have no further questions, your

DCCBKURT6

de Villaine - direct

1 Honor.

2 THE COURT: Mr. Mooney.

3 MR. MOONEY: Before you take everything away --

4 THE COURT: Do you want to keep some of that?

5 MR. MOONEY: Yes, I want to keep some of that.

6 THE COURT: Okay.

7 MR. MOONEY: There it is. You were hiding it.

8 CROSS-EXAMINATION

9 BY MR. MOONEY:

10 Q. Good afternoon.

11 A. Good afternoon.

12 Q. You've looked at a lot of printed material there and one in
13 particular that you were shown was this one. This is the label
14 that says 1945 on one side and 1942 on the other side.

15 Do you ever print labels on both sides?

16 A. No, we don't need to save paper that much.

17 Q. It would be kind of difficult to have to look through the
18 bottle to see what it was on the other side, wouldn't it? And
19 this would be pretty confusing to look in the bottle and see a
20 bottle that said 1945 on one side and you look in there and
21 it's 1942?

22 A. Obviously. And, well, it would be difficult to see through
23 the wine.

24 Q. Yes. Maybe if you tipped the bottle. Or after you drink
25 it, you get a surprise?

DCCBKURT6

de Villaine - cross

1 It's unlikely, isn't it, that anybody would ever
2 expect that this is something that would be put on a bottle?

3 A. Totally. Totally, yes. I've never seen it.

4 Q. You certainly wouldn't do anything like this? You'd never
5 put that on a bottle, would you?

6 A. Certainly not. If a label like this was in the stack of
7 labels, we immediately throw it out.

8 Q. Now, do you know a company by the name of Nicolas?

9 A. Nicolas?

10 Q. Nicolas.

11 A. Yes.

12 Q. And what kind of business are they in?

13 A. Nicolas used to be in the wholesale business for long time
14 in the 20th Century and then they started to be only in the
15 retail business. We have known them-- we have known them for a
16 long time. Forever.

17 Q. And Romanee-Conti has had a relationship with Nicholas, has
18 it not?

19 A. Yes, like every grower in Burgundy.

20 Q. And there was a period of time when they would even do some
21 bottling, wouldn't they?

22 A. They are doing. There was a time when, like most of the
23 domaines in Burgundy, our domaine was selling wine in bulk to
24 ship it to some people and one of them being Nicolas. And that
25 was until the -- until, I'd say, the '30s.

DCCBKURT6

de Villaine - cross

1 Q. And they would receive the wine in barrels?

2 A. They would receive the wine in barrels, mm-hmm.

3 Q. And at some point in time, they would take the wine from
4 the barrels and put it in the bottles?

5 A. Exactly.

6 Q. And then you would also bottle the wine at the estate?

7 A. Yes.

8 Q. When did you first start bottling wines at the estate? Do
9 you know?

10 A. Oh, a very long time ago. This ancestor I was speaking
11 about who created the domaine in 19th Century was himself
12 bottling and sending practically all the wines he made, a good
13 part of that, in barrel. And Dominique Conti was only been
14 sold in bottle since that time. The other wines were sold in--
15 some other wines were sold in barrels, but Dominique-Conti
16 itself was always sold in bottle.

17 Q. And over the years the nature of how the bottles are
18 manufactured has changed. Is that right?

19 A. Yes.

20 Q. In the early period they would be hand blown?

21 A. At the very early period, yes.

22 Q. And when you look at the bottles, you can tell the
23 difference between an old hand-blown bottle and a newer bottle?

24 A. Hand-blown, it's really very long time ago. Even I don't,
25 frankly, don't remember exactly when it stopped and became an

DCCBKURT6

de Villaine - cross

1 industrial bottles. But this, the hand-blown bottles, are at
2 least a hundred years-- at least a hundred years ago or more.

3 Q. The domaine has not kept a library of its labels over the
4 years, has it?

5 A. Yes, we have kept a certain library, but some labels have
6 disappeared. It's not, you know-- it's only very recently that
7 we encounter the problem of fake bottles. There was no-- there
8 was no -- how you say? It was not one of our priorities to
9 keep old labels. So we still have a certain library of old
10 labels, but not all vintages produced and not all the wines
11 produced.

12 Q. It's got some gaps in it?

13 A. Hmm?

14 Q. There's some labels for which you do not have a copy?

15 A. Yes.

16 Q. And we've heard that a lot of the vineyards or most of the
17 vineyards when they would bottle wines originally, that the
18 bottles are not labeled at the time they're bottled. They're
19 only labeled before they leave the vineyard.

20 Does domaine -- does Romanee-Conti do the same thing?

21 A. This has happened in Burgundy because our cellars are damp.
22 And if we labeled before shipping and putting in our cellars,
23 the labels would be damaged. So they are put on the bottles
24 only at the moment of the shipping, yes.

25 Q. What's the oldest bottle of wine that you think that you

DCCBKURT6

de Villaine - cross

1 have in your cellar?

2 A. A bottle -- we have one bottle of Richebourg in 1911.

3 Q. And that 1911 doesn't have a label on it, does it?

4 A. No. No.

5 Q. So I doubt you'd want to sell it to me and I don't think I
6 can afford it. But if you were willing to sell me that bottle,
7 you'd have to put a label on it at that point, wouldn't you?

8 A. It's out of the question anyway.

9 Q. We can't negotiate.

10 A. No.

11 Q. But the same would be true of some of the newer ones, I
12 take it maybe from the '70s or something like that.

13 A. We still have some inventories of '70s or '76 of our
14 vintages, very small inventories, and they are in the cellar
15 without label.

16 Q. And they're not labeled?

17 A. No.

18 Q. And when a wine-- when the bottles come back in for
19 reconditioning, it's going to be one of those bottles that
20 you're going to pull out to try to match up and do the
21 reconditioning?

22 A. When we used to do it. And if we do it for ourselves,
23 sometimes we do it for ourselves, a few bottles left in one
24 vintage. You need at least six bottles and you open them, you
25 taste them to see if there is no problem of corkage or

DCCBKURT6

de Villaine - cross

1 whatever, and then you sacri-- you take one bottle that you use
2 for to fill the others. And with what's left with the wine you
3 use, you drink.

4 Q. And there's nothing wrong with that.

5 And one of the reasons that you would recondition a
6 wine would be because the integrity of the cork is now becoming
7 questionable?

8 A. Exactly. That's when the-- if the quality of the cork --
9 if you can see that there are some mold, some mold, you know,
10 then it's better to open, to recondition it.

11 Q. Then --

12 A. But, you know, I must say that the best thing to do with a
13 bottle like this is really to drink it. Really to drink it.
14 Because once you open a bottle to refill it, then you take away
15 some of the quality of the wine because it's a tough-- wine is
16 something alive. You know, it's alive. And if you give it a
17 treatment like this, it will really suffer and the wine will
18 never come back to its former way. So it's much better to
19 drink it with good friends.

20 Q. But if I opened that wine and had a little bit of it and
21 wanted to drink more of it later, I could always put a cork
22 back in it on a temporary basis, couldn't I?

23 A. Very, very, very temporary. Because in old bottles like
24 that, they become oxidized very quickly and after one hour, one
25 or two hours, the wine may already become difficult to taste.

DCCBKURT6

de Villaine - cross

1 Q. So if I open it, I should drink it.

2 A. Exactly.

3 Q. And when it's at that point-- you don't make wine for me to
4 put in a showcase with nice lights on someplace for people to
5 look at, do you? You make wine for me to drink?

6 A. Exactly. And that's why it's for people like us, you know,
7 who put all this effort to make nice wines. And it is
8 difficult. It's a big effort. It's a lot of details. To see
9 some of these bottles become objects of speculation is really
10 something that we don't like.

11 Q. Now, you've met Rudy, haven't you? Mr. Kurniawan.

12 A. I have met Rudy, yes.

13 THE WITNESS: Hello, Rudy.

14 Q. And did you first meet him back in 2003?

15 A. Possibly. I must say I didn't recall the dates, but I
16 remember meeting him in two circumstances, yes.

17 Q. Do you remember drinking a wine with him?

18 MR. MOONEY: Could we put this on? This comes from
19 14-2.

20 Q. Do you recognize this bottle of wine?

21 A. Yes.

22 Q. And does that bear your signature?

23 A. Yes.

24 Q. And does it have a date on it?

25 A. The 2/17 (ph), yes.

DCCBKURT6

de Villaine - cross

1 Q. And this is a bottle of your wine. This is a
2 Romanee-Conti. Right?

3 A. That's exactly right.

4 Q. And this was a bottle of wine that you drank with Rudy?

5 A. It must be, yes.

6 Q. Okay. And you signed the bottle?

7 A. I can see that I put the [French]. I'm very often asked to
8 sign bottles. And I put certainly this for him because we must
9 have drank it with other people and I put for him [French]
10 "Very cordially, Aubert."

11 Q. You didn't bring this bottle to the tasting, did you?

12 A. I, frankly, have no memory of this tasting. So I don't
13 think I brought it, no.

14 Q. Normally other people bring bottles. Right?

15 A. Right.

16 Q. And I take it, it's a phenomena that we've been hearing
17 about, that when you go places to taste, people tend to show up
18 with bottles of your wine. They don't tend to show up with
19 other people's wines.

20 A. It depends. It depends. Sometimes, yes. For bottles like
21 this, it's very good for me because this is a wine they we--
22 for instance, today we don't have -- in 2003 I don't remember.
23 Today we don't have one bottle left, unfortunately.

24 Q. And there was a later occasion, at least one that you drank
25 with him, is there not? Let me see if you remember. Does that

DCCBKURT6

de Villaine - cross

1 bottle look familiar to you? This is also from 14-2.

2 A. I don't remember. It's maybe the bottle that we tasted at
3 this big tasting of Romanee-Conti in New York. I don't
4 remember exactly the year. It may be that bottle.

5 Q. This hasn't been admitted yet, so perhaps we should close
6 this out.

7 Let me show you from the same bottle. And this has
8 been provided as Defense B-22.

9 Is that your signature on there?

10 A. Yeah, it is. Must be.

11 MR. MOONEY: Your Honor, we would move the admission
12 of B-22.

13 THE COURT: I'll allow it.

14 (Defendant's Exhibit B-22 received)

15 Q. So does that help you remember this event or this tasting?

16 A. I would think it is this tasting of Romanee-Conti in New
17 York at the restaurant something, what, ten years ago?
18 Frankly, I don't remember. I see other signatures too.

19 Q. There are quite a few signatures on there, aren't there?

20 A. Yeah.

21 Q. Let's go back. This one is part of 14.2. If you look at
22 this part of the bottle--

23 A. You know, sometimes it's a habit of people to sign --

24 Q. You see quite a few people's signatures on there, don't
25 you?

DCCBKURT6

de Villaine - cross

1 A. Must be a memory.

2 Q. And then, if you look up on there, there's even more up
3 there.

4 A. Mm-hmm. Must have been the tasting, I guess.

5 Q. And this name that is signed on either side of the 1945, do
6 you remember who that is?

7 A. Here?

8 Q. Allen Meadows?

9 A. Allen Meadows, yes.

10 Q. Okay. So this bottle that you all drank on that
11 occasion --

12 A. Tasted.

13 Q. That's a 1945 Romanee-Conti, isn't it?

14 A. Mm-hmm.

15 Q. So one of the rarest bottles that one could potentially
16 find?

17 A. Mm-hmm.

18 Q. And it tasted very good, didn't it?

19 A. If I can remember, there was no-- it was a bottle that was
20 appreciated by everybody, yes.

21 THE COURT: That was what?

22 THE WITNESS: Appreciated.

23 THE COURT: It was appreciated?

24 THE WITNESS: Appreciated by everybody, yes.

25 Q. Do you remember Mr. Meadows-- and you know who Mr. Meadows

DCCBKURT6

de Villaine - cross

1 is? He's a critic. Right?

2 A. Mm-hmm.

3 Q. Do you remember him rating this as a 100?

4 A. No, I don't remember, but very possible.

5 Q. You would not be surprised if he would rate your '95-- or
6 your '45 Romanee-Conti as 100, would you?

7 A. The Meadow family does the rankings that are used here, you
8 know, 100. So what means 100, I don't know, but it means that
9 the wine was very good, perfect.

10 THE COURT: Counsel, what exhibit was that?

11 MR. MOONEY: Say again, your Honor?

12 THE COURT: What exhibit?

13 MR. MOONEY: Those are-- we haven't given them a
14 specific number, but they came out of 14.2. What we would like
15 to do, your Honor, is designate this one that has the two
16 bottles on it as Defense Exhibit B-31 if that's acceptable.

17 THE COURT: Yes, that's fine.

18 MR. MOONEY: And separately admit it as that.

19 And this one -- and we'll trim away the other half of
20 it that only has the one. We ended up with two printed on each
21 one. Make that one B-32.

22 And then also provided in discovery-- maybe turn the
23 jury off for now. We would submit-- here's another picture of
24 the full bottle. This was provided as B-1. We would move its
25 admission.

DCCBKURT6

de Villaine - cross

1 THE COURT: Is this the same as --

2 MR. MOONEY: These are more pictures of the same
3 bottle, your Honor.

4 THE COURT: I see. What number is this one?

5 MR. MOONEY: B-1, Bravo 1.

6 THE COURT: That's what you're calling it, Exhibit
7 B-1?

8 MR. MOONEY: That's how we provided it to the
9 government. So I'm keeping the same numbers. That's why we
10 jumped to the 31 on the other one. And then this one is Bravo
11 22, B-22. And then Bravo 23, which is the one he did look at
12 and identified his signature on. And then, finally, Bravo 29.
13 And we move the admission of all of those exhibits.

14 THE COURT: Okay. Just so I understand, they are
15 pictures of the same bottle?

16 MR. MOONEY: They are all pictures of the same bottle.
17 Then the earlier one we have-- oh, Bravo 32, excuse
18 me, b-32 is not. B-32 is the one that he identified as the
19 bottle from 2003. Those are separate bottle but he did
20 identify it.

21 THE COURT: Okay.

22 MR. MOONEY: So we would move the admission of each of
23 those?

24 THE COURT: I'll allow it. I'll allow them.

25 MR. MOONEY: Thank you, your Honor.

DCCBKURT6

de Villaine - cross

1 (Defendant's Exhibits B-1, B-22, B-23, B-29, B-31 and
2 B-32 received)

3 BY MR. MOONEY:

4 Q. It's common for people who do tastings to write down
5 tasting notes. Is that right?

6 A. Mm-hmm.

7 Q. And you often write down notes when you do tastings, don't
8 you?

9 A. I do.

10 Q. And you would not be surprised if Mr. Kurniawan wrote down
11 notes when he went to tastings?

12 A. Mm-hmm.

13 Q. It's quite common for people that are going to taste these
14 kinds of wines. In fact, if you got a whole bunch of people
15 together, you would expect each of them would want to write
16 down their impressions. Right?

17 A. Mm-hmm. Mm-hmm.

18 MR. MOONEY: If we could have the ELMO back on again.

19 Q. I'll show you, this is from Government Exhibit's 1-328 and
20 purports to be a tasting note from Mr. Kurniawan.

21 Do you see the entry there for a 1990 La Tache?

22 A. Mm-hmm.

23 Q. And do you know what a La Tache is?

24 A. La Tache --

25 Q. You better. That's one of your labels, is it not?

DCCBKURT6

de Villaine - cross

1 A. Should I say what La Tache is? No? Yes?

2 Q. Yes. La Tache is one of the wines that you produce.
3 Right?

4 A. Yes, one of the wines that we produce exclusively.

5 Q. And so I know it's probably a little bit difficult to read,
6 but would this be-- from what you can see, is that consistent
7 with what you would expect for just normal tasting notes?

8 A. You mean that kind of notes?

9 Q. Yes, this kind of note. These kind of descriptions.

10 A. Oui, but I would say you have to let me have some time to
11 read.

12 Q. Okay.

13 A. Unless you read it for me.

14 Q. Well, it says "Ruby core but surprisingly mature and light
15 rim. Herbs" --

16 THE COURT: Slow down. Surprisingly--

17 Q. Surprisingly mature and light rim.

18 THE COURT: Is that a period after that?

19 THE WITNESS: Yes, period after that.

20 Q. Would that make sense? That's the first line.

21 A. Mm-hmm.

22 Q. Would that be consistent with what one would do in tasting
23 notes?

24 A. Yes. Yes. Tasting notes is --

25 Q. So he's describing --

DCCBKURT6

de Villaine - cross

1 THE COURT: Wait, he's answering your question.

2 Q. I'm sorry, go ahead.

3 A. Tasting notes is a mixture of personal impressions that you
4 describe in your own words and also words that are understood
5 by the community of tasters. So it's a mixture. That's the
6 typical tasting notes, yes.

7 Q. Then it goes on to say "herbs and game with some 90
8 greenness shown"?

9 A. Mm-hmm.

10 Q. Is that consistent with what you would expect for the 1990
11 Latour?

12 A. At that time possibly, yes. When was that? In what --

13 Q. This would have been-- this would have been in August of
14 '08.

15 A. '08? You know the wine has an evolution in the bottle and
16 this today may taste different, but at the time, yes, it's
17 quite possible.

18 Q. The wine's going to change over time, isn't it?

19 A. Wine changes, yes. It's alive and it changes. It is an
20 evolution. And if the wine is a great wine, an evolution
21 towards very vine aromas and taste which become finer and finer
22 with time. And this greenness that was noted here has perhaps
23 disappeared today. I don't know.

24 Q. Because all wine has a life.

25 A. Mm-hmm.

DCCBKURT6

de Villaine - cross

1 Q. And you design your wines so that they'll reach a peak
2 period, be at their best, but you can't keep them there
3 forever, can you?

4 A. They are -- the wine is actually designed by a combination
5 of nature and us and our work. And without nature, without
6 the exact way it is given by nature, we couldn't make great
7 wines. So it's very-- these wines are the product of a
8 marriage of men and nature, I'd say. A work of art by both, by
9 two entities.

10 Q. What's a vertical tasting?

11 A. Vertical tasting is a tasting of the same wine in a certain
12 number of vintages. Horizontal. Vertical tasting is a tasting
13 of -- you take La Tache and you taste in three, four, five,
14 six, however many Contis, however many Contis tastings that
15 have been prepared for years by the people who gave it. We
16 tasted 75 vintages in several days.

17 Q. Do you recall back in 2005, in the period December 2nd
18 through December 4th, a tasting of La Tache wines that occurred
19 here in New York?

20 A. I tell you, frankly, my memory has become weak now, much
21 weaker than it used to be. And I don't remember practically
22 any of this particular tasting where I was present, supposed to
23 be I was present.

24 Q. And you were present.

25 A. Very possible.

DCCBKURT6

de Villaine - cross

1 Q. And with wines that dated back to 1934.

2 A. Mm-hmm.

3 Q. Do you remember that?

4 A. Mm-hmm.

5 Q. At Per Se Restaurant?

6 A. At Per Se Restaurant?

7 Q. Yes.

8 A. But wasn't it a Romanee-Conti tasting? It was a La Tache
9 tasting? It's very possible.

10 Q. Something that took place over a period of three days, is
11 that right?

12 A. Mm-hmm.

13 Q. And you knew that one of the individuals who was supplying
14 wines for that tasting was Mr. Kurniawan. Is that right?

15 A. I didn't know about the wines, supplying the wines. Before
16 the tasting I didn't know.

17 Q. Did you see Mr. Kurniawan at that event?

18 A. I must have seen him, yes. If he was there, I seen him.

19 Q. Do you know somebody by the name of Wilf Jaeger?

20 A. Yes.

21 Q. Was that somebody who might have supplied wines too?

22 A. Very possibly, yes. It's a great cellar.

23 Q. And Burt McMurtry?

24 A. Yes.

25 Q. But you don't specifically remember how that was all put

DCCBKURT6

de Villaine - cross

1 together and what happened in that event?

2 A. No, frankly, I don't. I don't remember specifically. But
3 you mentioned these names now. I remember now that we had this
4 tasting.

5 Q. You don't remember that it was one of those wine tasting
6 events that was written about and that people are still talking
7 about?

8 A. Mm-hmm. Mm-hmm. Well, I've been to a few of them, so,
9 you know, I don't remember them all. I'm sometimes confusing
10 one with another. But this must have been a great tasting.

11 Q. You would have remembered if you went to such an event and
12 you were presented with wines that weren't your own, wouldn't
13 you, pretending to be yours? You would have remembered that?

14 A. Yes, I would remember. Yes, I think so.

15 Q. And that didn't happen, did it?

16 A. At the time, I don't know. I have no memory that there
17 were wines that were in suspicion. I don't remember that. But
18 I feel for that I should go back to my files and see my notes.
19 To answer you precisely, I should have my notes with me.

20 Q. So without your notes, you're not exactly sure?

21 A. I am not exactly sure.

22 Q. But you don't have any memory as you sit here today of
23 somebody giving you a wine and you saying, What are you giving
24 me this for, that's not a Romanee-Conti? That didn't happen?

25 A. It happened to me several times to be offered to taste

DCCBKURT6

de Villaine - cross

1 Romanee-Contis and writing in my notes that they really didn't
2 look like Romanee-Conti, but I didn't do-- didn't do anything.

3 Q. But you don't have any memory of it being on this occasion?

4 A. No.

5 MR. MOONEY: No more questions, your Honor.

6 THE COURT: Any redirect?

7 MR. FACCIPONTI: Just two questions, your Honor.

8 MR. MOONEY: I'm going to return this to you. I won't
9 be responsible for it.

10 REDIRECT EXAMINATION

11 BY MR. FACCIPONTI:

12 Q. Mr. de Villaine, do you remember Mr. Mooney asked you
13 questions about the '45 bottle of Romanee-Conti that you
14 tasted?

15 A. Mm-hmm.

16 Q. Would you be surprised if someone told you they had six
17 bottles of '45 Romanee-Conti?

18 A. I would be very surprised.

19 Q. Why would you be surprised?

20 A. Because when you have a production of six hundred bottles
21 in a vintage, with a wine that has been so much looked for and
22 be in the hands of so few people, you really wonder today how
23 you could have one person with six bottles. It seems-- it
24 seems very complicated, very difficult to understand.

25 Q. Earlier you made a comment about a problem with fake

DCCBKURT6

de Villaine - redirect

1 bottles.

2 Why are fake bottles and counterfeiting a problem for
3 the domaine?

4 A. Well, because it's something that is extremely destroying
5 for it. It puts a cloud of doubt, you know, on the
6 authenticity of the wines. When somebody sees a bottle of
7 Romanee-Conti or La Tache or any other wines, it puts a cloud
8 of doubt. And then a cloud of doubt is the beginning of less
9 reputation. It's not good for your reputation. It's not good
10 for the reputation of Burgundy in general. And it can be-- it
11 can be very destructive.

12 MR. FACCIPONTI: We have no further questions, your
13 Honor.

14 THE COURT: Thank you very much. Thank you.

15 (Witness excused)

16 THE COURT: Next witness would be would?

17 MR. HERNANDEZ: Susan Twellman.

18 THE COURT: Okay. So we could put her on the stand.
19 I need to talk to counsel for a moment, please. You know what?
20 We'll take a two-minute break.

21 Let me see counsel at sidebar.

22 (Recess)

23 (Continued on next page)

DCCBKURT6

de Villaine - redirect

1 (At the sidebar)

2 THE COURT: So, Mr. Mooney, one of your exhibits which
3 I admitted and for which are several photos of a bottle of 1945
4 wine--

5 MR. MOONEY: Right.

6 THE COURT: It's actually photos of four exhibits.

7 MR. MOONEY: Right.

8 THE COURT: Has a name on it that I recognize.

9 MR. MOONEY: Okay.

10 THE COURT: At the top. The name is Josh, J-o-s-h,
11 Leuchtenberg, L-e-u-c-h-t-e-n-b-e-r-g.

12 MR. MOONEY: Okay.

13 THE COURT: And I should tell you how I recognize it.
14 He lives in my building. And, in fact, he's on the board of--
15 it's a co-op building. I know him casually. I've never had
16 dinner with him or a meal with him, but I--

17 MR. FACCIPONTI: Or any wine.

18 THE COURT: Or any wine with him.

19 MR. MOONEY: And you certainly weren't invited for the
20 '45, I dare say.

21 THE COURT: I certainly wasn't. But since it came up,
22 I thought I should put it on the record. It won't have any
23 influence on me one way or another but I wanted you to know
24 about that.

25 MR. MOONEY: And I'm assuming he's not one of your

DCCBKURT6

de Villaine - redirect

1 witnesses. He's not one of ours.

2 MR. HERNANDEZ: He's not.

3 THE COURT: And he's not one of yours?

4 MR. MOONEY: No.

5 MR. VERDIRAMO: He signed the bottle so he must have
6 liked it.

7 THE COURT: I guess.

8 MR. VERDIRAMO: New York is a very small town. People
9 don't realize how small a town it is.

10 THE COURT: I was looking --

11 MR. MOONEY: We can go off the record with that.

12 THE COURT: We're done.

13 (Continued on next page)

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DCC6KUR7

Twellman - direct

1 THE COURT: Pleads be seated.

2 THE DEPUTY CLERK: Ma'am, I would ask you to raise
3 your right hand, please.

4 SUSAN TWELLMAN,

5 called as a witness by the Government,

6 having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. HERNANDEZ:

9 Q. Ms. Twellman, I am going to ask you to move the microphone
10 close to.

11 Can you please tell us what city and state you live
12 in?

13 A. Laguna Hills, California.

14 Q. What do you do for a living?

15 A. I manage the estate of David Doyle.

16 Q. How long have you done that for?

17 A. Since 1997.

18 Q. What are your responsibilities for managing David Doyle's
19 estate?

20 A. I handle all his financial affairs, his family office, and
21 manage his wine cellar.

22 Q. Can you tell us just very briefly what David Doyle's
23 professional background is?

24 A. David is retired from the software industry. He was a
25 software founder of Quest software, and he is currently retired

DCC6KUR7

Twellman - direct

1 and spends much of his time traveling and visiting various
2 restaurants.

3 Q. Do you know if Mr. Doyle buys old and rare wine?

4 A. Yes.

5 Q. How do you know that?

6 A. Because I complete many of the purchases.

7 Q. Do you know someone named Rudy Kurniawan?

8 A. Yes, I do.

9 Q. How do you know him?

10 A. We were friends with Rudy and I know him from wine tastings
11 and from purchasing wine from him.

12 Q. So you said you know him from purchasing wine from him.

13 Just to be clear, do you know if Mr. Doyle has purchased wine
14 from Rudy Kurniawan?

15 A. Yes, we have.

16 MR. HERNANDEZ: I am going to ask if we can show to
17 Ms. Twellman, Government Exhibit 31-1.

18 Q. You have it in paper copy in front of you.

19 Do you see 31-1?

20 A. Yes.

21 Q. Tell me if you recognize that document?

22 A. Yes, I do.

23 Q. How do you recognize it?

24 A. It is a document that we provided from David's e-mail.

25 Q. You recognize Mr. Doyle's e-mail address on this e-mail

DCC6KUR7

Twellman - direct

1 string?

2 A. Yes, I do.

3 Q. Do you recognize him to be corresponding with Rudy
4 Kurniawan?

5 A. Yes, I do.

6 Q. Is the general subject of this e-mail exchange about a
7 purchase of wine that David Doyle is going to buy from Rudy
8 Kurniawan?

9 A. Yes.

10 MR. HERNANDEZ: The government offers 31-1.

11 THE COURT: I will allow it.

12 (Government's Exhibit 31-1 received in evidence)

13 BY MR. HERNANDEZ:

14 Q. This is a multiple e-mail exchange, right? There are
15 multiple times where Mr. Doyle and Rudy Kurniawan are writing
16 back and forth about a purchase of wine?

17 A. Yes, it is.

18 Q. Can you tell us based on the last e-mail exchange whether
19 there was a purchase of wine and if so how much Doyle paid for
20 the wine?

21 A. Yes. It says here that there was an agreed upon price for
22 several bottles, which are listed previously for 3,227,000.

23 Q. Then if you flip to the attachment to this e-mail, you will
24 see it looks like a spreadsheet. Tell me if you see that.

25 A. Yes.

DCC6KUR7

Twellman - direct

1 Q. Are there any wines from the Domaine Ponsot that are a part
2 of this transaction?

3 A. Yes, there are. The 1959 and 1962.

4 Q. And are those in both standard size, 750 millimeter and
5 also some magnum?

6 A. Yes.

7 Q. Do you see a line there for DRC?

8 A. Yes.

9 Q. Is there a line for 1945 Romanee-Conti?

10 A. Yes.

11 Q. How many bottles is listed under that heading?

12 A. Six.

13 Q. Now I am going to ask you a few questions just about
14 whether you know that transaction was consummated.

15 Do you know if Mr. Doyle paid Rudy Kurniawan for those
16 wines?

17 A. Yes. I wired the funds.

18 Q. Can you look at 25-10, which is another exhibit in front of
19 you?

20 A. Yes.

21 Q. That is a record. We had a stipulation in the case about
22 this being the Wells Fargo record for the defendant Rudy
23 Kurniawan. What you have is the June 2007 statement and all
24 but one transaction is blacked out.

25 Do you see the transaction that is there?

DCC6KUR7

Twellman - direct

1 A. Yes. That transaction shows the wire information from our
2 account.

3 Q. So that reflects that from your account Rudy Kurniawan was
4 paid that \$3.2 million figure?

5 A. Yes.

6 MR. HERNANDEZ: The government offers 25-10.

7 THE WITNESS: 3,227,000.

8 MR. HERNANDEZ: Thank you.

9 THE COURT: I will allow it.

10 (Government's Exhibit 25-10 received in evidence)

11 BY MR. HERNANDEZ:

12 Q. Do you know whether Mr. Doyle ever received the Domaine
13 Ponsot bottles in that schedule?

14 A. Yes.

15 Q. How do you know that?

16 A. I received them.

17 Q. What did you do with them after you received them?

18 A. Put them into our cellar.

19 Q. Since they were put into your cellar, have you shipped any
20 to New York?

21 A. Yes.

22 Q. Can you tell us what the circumstances were?

23 A. Yes. I shipped them on the request of an FBI agent.

24 Q. Is that James Wynn?

25 A. Yes.

DCC6KUR7

Twellman - direct

1 MR. HERNANDEZ: Your Honor, we heard testimony before
2 that Agent Wynn received the bottles out here on the table
3 which are 9-1 through 9-6 from Ms. Twellman and now with
4 Ms. Twellman's testimony, we would offer those into evidence.

5 THE COURT: I will allow them.

6 (Government's Exhibits 9-1 to 9-6 received in
7 evidence)

8 BY MR. HERNANDEZ:

9 Q. I guess I will just say to make the record complete that
10 these are all bottles of Domaine Ponsot from the Clos Saint
11 Denis vineyard from 1971, 1962 and 1959.

12 Now, after Mr. Doyle made this purchase from Rudy
13 Kurniawan, do you know whether Mr. Doyle and Kurniawan kept in
14 touch?

15 A. Yes, they did. They were friends.

16 Q. Sorry. I didn't hear the last word?

17 A. I said, Yes they did. They were friends.

18 Q. And I am going to ask you to look at an e-mail that is
19 marked 31-11 that is right in front of you.

20 Do you see that?

21 A. Yes.

22 Q. Do you recognize it?

23 A. I do.

24 Q. How do you recognize it?

25 A. I provided it to you from David's e-mail.

DCC6KUR7

Twellman - direct

1 Q. Is that an e-mail from Rudy Kurniawan to Mr. Doyle?

2 A. Yes, it is.

3 MR. HERNANDEZ: Government offers 31-11.

4 THE COURT: I will allow it.

5 (Government's Exhibit 31-11 received in evidence)

6 BY MR. HERNANDEZ:

7 Q. Now, in June of 2007 Mr. Doyle had paid \$3.2 million a
8 little bit more than \$3.2 million for some wine that Rudy
9 Kurniawan delivered, correct?

10 A. Yes.

11 Q. This is an e-mail from July 25th, 2007, from the defendant
12 to David Doyle, and I am going to read it. It says, Hey, Dave.
13 I am just really in need of three mill to pay bills
14 immediately. In real deep, deep s-h-i-t. Can you help while
15 we wait on others? Only if it is not in your way or whatever
16 reasons. I completely understand. Have fun in Thailand.
17 Please advise ASAP at your convenience. Thanks, Rudy. Please
18 don't get pissed at me. Dot, dot, dot, dot and a frown.

19 THE COURT: Can you just indicate for the record what
20 the subject is?

21 MR. HERNANDEZ: The subject is "Got the message from
22 Susan."

23 Q. Now, Ms. Twellman, my question to you is: We have seen the
24 transaction for the wine that was a little over \$3.2 million.
25 Is this message from Rudy Kurniawan about a different

DCC6KUR7

Twellman - direct

1 three-million dollar potential loan or purchase or transaction?

2 A. Yes, it is.

3 Q. And the "got the message from Susan," do you understand
4 what that is a message from?

5 A. Yes. That's me.

6 MR. HERNANDEZ: Thank you. No further questions.

7 THE COURT: Counsel.

8 CROSS-EXAMINATION

9 BY MR. VERDIRAMA:

10 Q. Good afternoon, Mr. Twellman.

11 How are you doing today?

12 A. I am doing well. Thank you.

13 Q. Good. Just a couple of questions.

14 With regard to the wines that were the subject of
15 these deliveries, did you contact my client --

16 THE COURT: The subject of the deliveries of the wines
17 on the table?

18 Q. When those came in, that was part the \$3 million purchase
19 you just spoke on?

20 A. Repeat that.

21 Q. The \$3.2 million purchase, these wines were part of that
22 purchase?

23 A. To the best of my recollection, yes.

24 Q. You are not sure?

25 A. I -- I am not sure.

DCC6KUR7

Twellman - cross

1 Q. When Mr. Doyle purchases wines are they logged into any
2 kind of logbook?

3 A. Yes.

4 Q. And are they bar scanned or in any other way recorded?

5 A. Yes.

6 Q. And did you produce those records with regard to purchases
7 to the government?

8 A. Say that again.

9 Q. Did you produce those records of the scanning of the bar
10 codes to the government?

11 A. No, I did not.

12 Q. So sitting here today then we're not exactly positive, are
13 we, that those bottles are in fact part of the purchase from
14 the \$3.2 million?

15 A. No. I am positive those are the bottles that were
16 purchased from the spreadsheet for the 3.2 million. And they
17 didn't get put into the system right away because they came to
18 us in very poor condition.

19 Q. Okay. Those are the bottles you said when they came they
20 were dirty?

21 A. Yes.

22 Q. And when you informed Mr. Kurniawan they were dirty, he
23 came down and cleaned them for you, did he not?

24 A. Yes.

25 Q. He was fully cooperative with regard to that?

DCC6KUR7

Twellman - cross

1 A. Always.

2 Q. In fact, you guys were pretty good friends, weren't you?

3 A. Yes.

4 Q. You would go to dinner quite often together?

5 A. Yes.

6 Q. Rudy told me sometimes you would go to a place called
7 Cotton Los Angeles and drink some really good wine and have a
8 good time?

9 A. Yes.

10 Q. Would it be fair to say that Mr. Doyle and my client were
11 very good friends, very close?

12 A. Yes.

13 Q. Spent a good deal of time together?

14 A. Yes.

15 Q. In fact, there were times when they would go to tastings --

16 THE COURT: One question at a time.

17 Q. Mr. Doyle has his own plane?

18 A. Yes.

19 Q. Sometimes he would give Mr. Kurniawan a ride on the plane?

20 A. Yes, he has.

21 Q. And they would share wines?

22 A. Yes.

23 Q. Fairly often, as often as they possibly could when friends
24 get together?

25 A. Yes. They have similar palates.

DCC6KUR7

Twellman - cross

1 Q. Similar palates.

2 A. They have similar knowledge of wine.

3 Q. Now, did you have any knowledge of an understanding between
4 Mr. Doyle and Mr. Kurniawan that if Mr. Doyle ever got wine
5 that he wasn't happy with that Mr. Kurniawan would endeavor to
6 replace it and satisfy Mr. Doyle?

7 A. Yes.

8 Q. In fact he did that previous to this, correct?

9 A. He came --

10 THE COURT: Previous to?

11 Q. Previous to this purchase?

12 THE COURT: Excuse me. Previous to when?

13 MR. VERDIRAMA: This purchase.

14 A. I would need to know exactly what you are referring to
15 because I am not sure. Right off the top of my head I do not
16 remember trading anything out with him.

17 Q. Do you know whether at any point they ever traded bottles
18 for bottles, or you just don't recall?

19 A. I don't recall.

20 Q. Now, the other e-mail with regard to the prosecution read
21 to you with the additional \$3 million, do you know whether that
22 actually ever took place? Did Mr. Doyle ever give him the \$3
23 million based on that?

24 A. I don't know off the top of my head in relation to this
25 e-mail.

DCC6KUR7

Twellman - cross

1 Q. Where is the rest of the wine that was purchased for the
2 3.2 million?

3 A. In my cellar.

4 Q. In California?

5 A. Uh-huh.

6 Q. None of it was shipped to Australia?

7 A. If it were, it is back.

8 Q. Now, with other wines that Mr. Doyle purchased from
9 Mr. Kurniawan, were they ever -- strike that.

10 Mr. Doyle owns a restaurant in Australia, does he not?

11 A. Yes, he does.

12 Q. It has got a pretty fabulous wine list?

13 A. Yes, it does.

14 Q. And he privately sources some of the wines to put on that
15 wine list?

16 A. Yes.

17 MR. HERNANDEZ: Objection.

18 THE COURT: I will allow it.

19 Q. Do you know whether any of the wines that Mr. Doyle ever
20 purchased from Mr. Kurniawan ended up on that wine list?

21 A. I don't know off the top of my head.

22 MR. VERDIRAMA: Thank you.

23 THE COURT: Anything else?

24 MR. HERNANDEZ: No, your Honor.

25 THE COURT: Thank you very much. You may step down.

DCC6KUR7

Twellman - cross

1 (Witness excused)

2 MR. FACCIPONTI: The government calls Bryan Kalliel.

3 BRIAN KALLIEL,

4 called as a witness by the Government,

5 having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. FACCIPONTI:

8 Q. What city and state do you live?

9 A. Los Angeles, California.

10 Q. For whom do you work?

11 A. Melisse restaurant.

12 Q. Is that spelled M-e-l-i-s-s-e?

13 A. It is.

14 Q. Where is that restaurant located?

15 A. In Santa Monica, California.

16 Q. What kind of restaurant is it?

17 A. It's a French restaurant.

18 Q. What is your job there?

19 A. I am the wine director, sommelier.

20 Q. What is a sommelier?

21 A. The person in charge of all the wine, liquid in the
22 restaurant, buying and selling, opening, handling of wine.

23 Q. How long have you had that job at Melisse?

24 A. Almost 12 years.

25 Q. Do you know someone named Rudy Kurniawan?

DCC6KUR7

Kalliel - direct

1 A. I do.

2 Q. Do you see him in court today?

3 A. Yes, I do.

4 Q. Can you identify him by where he is sitting and something
5 he is wearing?

6 A. Gentleman with the black rim glasses on.

7 THE COURT: Which table?

8 THE WITNESS: The second table with his hand up.

9 MR. FACCIPONTI: Can the record reflect that the
10 witness has identified the defendant?

11 THE COURT: The record will so reflect.

12 Q. When did you first meet Kurniawan?

13 A. In early 2000, 2001.

14 Q. What were the circumstances in which you met him?

15 A. He came into the restaurant and from his first visit --
16 first visit I think he came in with a couple of wines, but
17 bought a few nice bottles of wine. And that is when we first
18 met Rudy.

19 Q. He brought a few bottles with him?

20 A. I think maybe one or two.

21 MR. VERDIRAMA: Can we ask the witness keep his voice
22 up.

23 Q. Mr. Kalliel, if you can pull your chair up.

24 THE COURT: Lean into the microphone.

25 Q. Try to speak into the microphone?

DCC6KUR7

Kalliel - direct

1 A. Okay.

2 Q. Did he come to the restaurant once or more than once?

3 A. Several times.

4 Q. How often would he come eat at Melisse?

5 A. Probably for a while every couple weeks. Maybe come one
6 week once or twice and not for a couple and then back for
7 several visits depending on the time of year, what was being
8 offered as food-wise or the people he was meeting.

9 Q. Did there come a time when Kurniawan stopped dining at
10 Melisse?

11 A. Yes.

12 Q. Approximately when was that?

13 A. About two years ago, three.

14 Q. When Kurniawan ate at Melisse, were you one of the people
15 who served him?

16 A. Yes.

17 Q. Would he dine alone or with others?

18 A. With others.

19 Q. The people who were with him, were they wine collectors?

20 A. Yes.

21 Q. Approximately how many would come with him to dine?

22 A. No less than four and upwards of eight to ten.

23 Q. Who would pay for these dinners?

24 A. Generally Rudy.

25 Q. You said he brought -- did he typically bring his own wine

DCC6KUR7

Kalliel - direct

1 to the restaurant?

2 A. Yes.

3 Q. What kind of wines would he bring when he dined there?

4 A. Generally high-end Burgundy an Bordeaux. Sometimes a
5 little champagne. White and red Burg, Bordeaux.

6 Q. What was the price range of these wines?

7 A. On the restaurant wine list or -- in the restaurant they
8 would have often been starting at a couple grand and jumping up
9 quite high.

10 THE COURT: So?

11 A. Maybe at auction half that depending on what he did.
12 Thousands of dollars a bottle often.

13 THE COURT: How high on the restaurant wine list?

14 THE WITNESS: Well, kind of hard to say because you
15 don't see a lot of wines in order to put a price tag on them.
16 I guess anywhere from five to \$20,000.

17 THE COURT: Per bottle?

18 THE WITNESS: Per bottle.

19 BY MR. FACCIPONTI:

20 Q. After you served Kurniawan's wine, what would you do with
21 the empty bottles?

22 A. I would put them in a box and put them in his car or save
23 them for him to pick up.

24 Q. Why would you do that?

25 A. Because he had instructed us that he wanted to save all the

DCC6KUR7

Kalliel - direct

1 bottles and the corks.

2 Q. What, if anything, did Kurniawan say to you about the way
3 you opened bottles of wine?

4 A. Well, he always used to say that I would never break a
5 cork. So that --

6 THE COURT: Meaning you wouldn't?

7 THE WITNESS: Meaning I would not.

8 Q. In total approximately how many bottles had you returned to
9 Kurniawan?

10 THE COURT: You mean empty bottles?

11 A. Empty bottles, between 50 and 100 I would say.

12 Q. How many of your other customers ever asked to get as many
13 bottles back?

14 A. Not too many. Generally birthdays or anniversary bottles.

15 Q. So let me ask the question again. How many of other
16 customers asked to get as many empty bottles back?

17 A. Oh, none.

18 Q. What were some of the circumstances under which a customer
19 might ask to have an empty bottle back?

20 A. Maybe their birthday year wine or the anniversary of their
21 marriage.

22 Q. What, if any reason did Kurniawan give you for requesting
23 to have all these empty bottles back?

24 A. That his mother liked to save them.

25 Q. Did his mother ever dine at Melisse?

DCC6KUR7

Kalliel - direct

1 A. She did.

2 Q. In total approximately how many times did she dine there?

3 A. For me two or three times.

4 Q. Out of all the times Mr. Kurniawan came there?

5 A. Yes.

6 MR. FACCIPONTI: We have no further questions, your
7 Honor.

8 THE COURT: Counsel.

9 CROSS-EXAMINATION

10 BY MR. VERDIRAMA:

11 Q. Good afternoon, Mr. Kalliel.

12 How are you?

13 A. I am well. How are you?

14 Q. Good.

15 You started at Melisse when?

16 A. I started there in 1999 and took over the wine program a
17 few years later.

18 Q. You started as a bartender there?

19 A. I was.

20 Q. And you are not a master of wine, are you?

21 A. I am not.

22 Q. Have you -- what course did you take to become a sommelier?

23 A. I am predominately self-taught, but I have been in the
24 court of master sommeliers and have taken a couple courses

25 there. I have been in wine tasting groups, but we are probably

DCC6KUR7

Kalliel - cross

1 the number one restaurant in Los Angeles for fine wine,
2 high-end wine. So just due to the huge amount of wine groups
3 that come in on a weekly, biweekly basis I probably taste more
4 wines like that than any other restaurant.

5 Q. And as the sommelier in this restaurant are you a salaried
6 employee?

7 A. Yes, I am.

8 Q. Do you also receive commission on the wine sales?

9 A. I do not.

10 Q. Now, you said that around 2001 or so Mr. Kurniawan started
11 coming in every couple weeks?

12 A. It seems like that. I would say 2001, 2002.

13 Q. And it would vary? It would come and go as to when he
14 would come?

15 A. When he first started coming in, he sort of make a slash
16 and had come in sort of regularly. He came in very generous
17 and a nice guy and came in and the chef liked him and Rudy
18 would order a lot of food and bring a lot of wine. First he
19 started buying wines and then he started bringing more of his
20 and buying less but always brought in a lot of people and a lot
21 of business. So it created a lot of stir and buzz and
22 restauranteurs like that.

23 Q. So the things he was doing in your restaurant helped your
24 restaurant's reputation?

25 A. Well, that will remain to be seen, but it appeared to in

DCC6KUR7

Kalliel - cross

1 the beginning.

2 Q. It didn't hurt, did it?

3 Now, when he would bring in his own wine, management
4 didn't have a problem with that, correct?

5 A. No.

6 Q. And on average how many bottles would he bring with him on
7 each visit, do you know?

8 A. Well, generally no. Aside from an occasional visit that
9 was smaller, generally no less than six or eight and oftentimes
10 we didn't even open things they were backups. So quite a few.

11 Q. He would share these wines with you as well as with
12 everybody else at the table?

13 A. He would.

14 Q. So you got to taste an awful lot of very good wine with
15 Mr. Kurniawan?

16 A. I tasted a lot of wine with Rudy over the years.

17 Q. Now, on direct you were asked a question about the returns.
18 You said Mr. Kurniawan always asked for the bottles and corks
19 back?

20 A. Yes.

21 Q. The age of these bottles, were they generally older bottles
22 of wine?

23 A. The labels on them or the wine inside of them?

24 Q. The wines themselves and the corks?

25 A. Well, they were -- they were represented to be older, yes.

DCC6KUR7

Kalliel - cross

1 Most of them did have age on them.

2 Q. Do you recall being interviewed by the FBI on September the
3 11th, 2011?

4 A. I do.

5 Q. In fact, two agents came over to Melisse to interview you?

6 A. They did.

7 Q. That doesn't happen every day, does it?

8 A. It doesn't.

9 Q. And you sat down and you spoke to him. What time of day
10 was it when they arrived?

11 A. I would say it was just before service. Between 2:00 and
12 4:00.

13 Q. Now, do you recall making a statement to them that you
14 believed that most of the bottles Kurniawan brought to the
15 restaurant contained real wine? Do you recall making that
16 statement?

17 A. Well, most of wine is real that is in bottles. Oftentimes
18 the bottles we drank I thought were good and there was many
19 times in tastings and parties that they didn't taste like the
20 wines that would be inside the labels.

21 Q. That would be your opinion, correct?

22 A. That would be my opinion.

23 Q. Now, do you recall telling the agents when they came
24 something about dinners and the agents asked you to find the
25 menus for those dinners?

DCC6KUR7

Kalliel - cross

1 A. They asked me to find the menus?

2 Q. I will read you what is in the FBI report. Tell me if you
3 agree what it states?

4 A. Sure.

5 MR. FACCIPONTI: Objection.

6 THE COURT: Sustained. Do you want to try to refresh
7 his recollection?

8 MR. VERDIRAMA: Yes, Judge.

9 Q. Do you recall making statement to the FBI agents?

10 THE COURT: Do you recall being asked a question and
11 giving a particular answer, is that what you mean?

12 MR. VERDIRAMA: Yes, Judge.

13 Q. Do you recalling being asked whether you drank wine
14 Mr. Kurniawan and you had informed the FBI agents that you
15 drank half bottles of 1947 Lafleur?

16 A. No. It was half bottle of 1947 Cheval Blanc specifically.

17 Q. Do you recall describing the wines as being beautiful?

18 A. I recall telling them the wines were not '47 Cheval Blanc
19 inside the bottles?

20 Q. Do you recall advising the FBI that you recalled opening a
21 lot of half bottles --

22 THE COURT: Are you asking questions. Are you
23 referring to answers he gave? That is how we refresh someone's
24 recollection. Usually verbatim the question and answer.

25 MR. VERDIRAMA: I can only go by the 302, Judge.

DCC6KUR7

Kalliel - cross

1 Q. Do you recall drinking six of 1947 Lafleur at anytime with
2 Mr. Kurniawan?

3 A. No. That is not correct. We were talking right before
4 service in a bit of a hurry and what I was referring to was
5 four to six bottles of '47 Cheval Blanc in half bottles that
6 had younger corks, high fill levels, quite a bit younger would
7 be the wine. Still good wine. I tasted many wines that
8 were -- you know, the only way somebody is going to mistaste
9 something is not by having a lousy wine in the bottle. It
10 still could still be a good wine that is in there, but I had
11 spoke of '47 half bottles of Cheval and the night of the Petrus
12 dinner one bottle of '47 Lafleur.

13 Q. Do you recall drinking a magnum of Lafleur with
14 Mr. Kurniawan?

15 A. I do not.

16 Q. Do you recall six half bottles of Cheval Blanc 1947?

17 A. I do. I tasted all of them as I opened them.

18 Q. Do you recall describing those wines as being beautiful?

19 A. I don't exactly recall that.

20 Q. Did you ever go to any of the auctions at Christie's?

21 A. No. But we've had Christie's dinners at Melisse.

22 Q. Do you recall at any of the Christie's dinners at Melisse
23 the Cheval Blanc bottles being opened?

24 A. I don't recall if it was a Christie's dinner. But I had
25 the Cheval Blanc '47 specifically or Cheval Blanc. Which are

DCC6KUR7

Kalliel - cross

1 you asking me?

2 Q. I am sorry?

3 A. You asked me on the Christie's on the auction, did any
4 bottles of Cheval Blanc.

5 Q. The 47?

6 A. The 47, I don't recall if the 750 bottle of '47 Cheval
7 Blanc was a Christie's dinner or not.

8 Q. Did you yourself sell any wine to Mr. Kurniawan?

9 A. Yes, I did.

10 Q. Did you act as a broker with regard to certain sales?

11 A. Yes, I did.

12 Q. What were those sales?

13 A. It was a mixed case of 2001 Domaine de la Romanee-Conti.

14 Q. Did you broker any other sales?

15 A. For Rudy?

16 Q. Yes.

17 A. No.

18 Q. Now, back in 2002 would you describe Mr. Kurniawan as being
19 somewhat of a novice with regard to his wine tasting?

20 A. I don't think a novice. I think when I have spoke of it in
21 the past, Rudy came on pretty quickly into the scene and seemed
22 to have a pretty good palate quite quickly.

23 Q. Did you ever tell the FBI that you helped educate Rudy?

24 A. I don't know if I -- I wouldn't say I helped educate him,
25 no. He brought in a lot of wines. I watched him transition

DCC6KUR7

Kalliel - cross

1 from -- well, if you will, from high-end certain domestic wines
2 that he used to bring in, Harlans and alike, to more
3 exclusively Burgundy, Bordeaux. I have watched him transform
4 as a pretty good taster in the groups and be able to blind
5 taste quite a few of the wines pretty well.

6 Q. Now, do you recall a party that Mr. Kurniawan gave for his
7 mother at Melisse?

8 A. I recall two of them and, yes. One where -- I think there
9 was maybe two. One where he bought out the restaurant and one
10 where he did not and she was at the center table.

11 Q. Is there anything about the wines that were served at those
12 dinners that you recall?

13 A. Well, I do recall thinking that the '82 double magnum of
14 Mouton was one of the freshest bottles of Mouton that I tasted.

15 Q. Now, at that dinner that was served was the actor Jackie
16 Chan at that dinner?

17 A. Yes, he was.

18 Q. Did he keep the bottles from that dinner if you recall?

19 A. He did keep a bottle and I don't recall which exactly. I
20 remember him asking for something after standing on the chairs
21 drinking.

22 Q. Now, on direct you said to your recollection you had
23 returned to Mr. Kurniawan between 50 and 100 bottles. Do you
24 recall giving answer that?

25 A. Yes.

DCC6KUR7

Kalliel - cross

1 Q. You were asked a question if as many of your customers got
2 that amount of bottles back and you answered none. Do you
3 recall being asked that question and giving that answer?

4 A. Yes. You are saying no single customers like Rudy would
5 have asked for as many bottles as he asked for back, correct.

6 THE COURT: That was the question before?

7 THE WITNESS: Yes.

8 Q. Now, how many other customers brought in the kind of wines
9 that Rudy brought in on a regular basis?

10 A. A lot.

11 Q. The same amounts?

12 A. No. Generally most wine groups people would bring in a
13 bottle or two of their own and they would all converge and
14 bring in these bottles. Sometimes they did with Rudy's
15 dinners, too.

16 Q. Rudy would collect the corks and bottles and bring them
17 home?

18 A. I can tell you that he always collected and brought back
19 the bottles that he brought. I believe sometimes they were
20 from other people if they didn't want them, which we usually
21 just tossed them.

22 MR. VERDIRAMA: Thank you very much.

23 THE COURT: Anything else?

24 MR. FACCIPONTI: Very quickly, your Honor.

25 REDIRECT EXAMINATION

DCC6KUR7

Kalliel - redirect

1 BY MR. FACCIPONTI:

2 Q. Mr. Kalliel, do you remember when Mr. Verdiramo asked you
3 some questions about the half bottles of '47 Cheval Blanc?

4 A. Uh-huh.

5 Q. Do you remember how many other bottles were opened that
6 evening when those '47s were opened?

7 A. Probably more than a dozen or so.

8 Q. When were the Cheval Blancs opened at the beginning of the
9 evening or at the end of the evening?

10 A. They were opened at the end of the night, at the end of the
11 big wine dinner.

12 Q. Did anything strike you as odd about that?

13 A. Well, I think I said that I thought it did a disservice to
14 a wine of that quality to pop open six half bottle and spread
15 them around and just guzzle them up.

16 Q. During the time that you served Mr. Kurniawan, did you ever
17 notice anything about the corks that you pulled from the
18 bottles?

19 A. Yes. Sometimes they seemed newer than the bottles
20 indicated they would be. Couple times they didn't quite match.
21 The rest of the corks as far as branding, a couple times they
22 were -- one time I recall one that was from a double magnum
23 that was -- sort of lacked the mold you might see around the
24 top of a bottle where you have a seal even when a bottle -- an
25 old cork could be a little loose. It didn't have that. So

DCC6KUR7

Kalliel - redirect

1 when you went to get into it, it was -- it had movement right
2 away and there was nothing there to indicate that it had
3 been -- it had kept its seal over the years to keep the amount
4 of freshness that the wine would have with age.

5 Q. Did there ever come a time in which you questioned
6 Mr. Kurniawan about some of the corks?

7 A. The only time was at the Petrus dinner.

8 Q. What happened?

9 A. We opened a few bottles and a couple people were standing
10 around and one of them -- I also sort of recollect what I
11 didn't say was one of them was sort of blank. It had a mark on
12 it, but it didn't match the others. And another one had a
13 stamp, a square rectangular stamp that seemed odd and
14 incorrect.

15 Q. What did you say to Mr. Kurniawan and what did he say to
16 you?

17 A. I think I spoke out of turn and said something to the
18 effect of that this didn't seem like a real cork and he said --
19 I think he basically -- he basically said, Please, to me to
20 indicate -- I thought to indicate that maybe I should just
21 serve the wine and not voice my opinions.

22 MR. FACCIPONTI: No further questions, your Honor.
23 Thank you very much.

24 (Witness excused)

25 THE COURT: Ladies and gentlemen, that will be it for

DCC6KUR7

Kalliel - redirect

1 today. Let me just give you my usual instructions to you at
2 the end of the day. First, do not talk with each other about
3 this case or about anyone that has anything to do with it until
4 the end of the case when you go to the jury room to decide on
5 your verdict.

6 Second, do not talk with anyone else about this case
7 or about anyone who has anything to do with it until the trial
8 has ended and you've been discharged as jurors. By "talking,"
9 I am referring to all forms of communication, not just
10 face-to-face but also e-mailing, texting, Tweeting and
11 blogging, etc. I am also referring to communications in any
12 forum such as Facebook, My Space or Twitter. Additionally do
13 not remain in the presence of other persons who may be
14 discussing the case base face-to-face, orally or online.

15 Third, do not let anyone talk to you about the case or
16 about anyone who has anything to do with it. And if someone
17 should try to talk to you about the case, please report that to
18 me or Christine immediately.

19 Fourth do not read any news or Internet stories or
20 articles or blogs, etc., or listen to any radio or TV or
21 Internet reports about the case or about anyone who has
22 anything to do with it.

23 Fifth, do not do any type of research or any type of
24 investigation about the case on your own.

25 So just as a heads up we're right on schedule.

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Kalliel - redirect

1 Tomorrow we certainly will not go beyond 2:00 and we'll see how
2 we do during the day. Perhaps a little bit earlier. You can
3 plan on being out of here by 2:00 tomorrow. We'll start same
4 time, same place. Leave your notes and see you tomorrow.

5 (Continued on next page)

DCC6KUR7

Kalliel - redirect

1 (Jury excused)

2 THE COURT: Can I get an idea, counsel, who is coming
3 tomorrow, how many witnesses.

4 MR. HERNANDEZ: Well, Judge, I actually handed a list
5 and we'll go as far as we can go. I think we're on track to
6 rest on Monday as we projected. The first witness will be
7 William Coke and then I expect to definitely reach Doug
8 Barzelay and David Parker. So those three I think we can count
9 on if we have as much time as I think we do.

10 THE COURT: In that order?

11 MR. HERNANDEZ: In that order. And if we have more
12 time Antonio Castanos, Don Stott.

13 THE COURT: Otherwise we move them to Monday.

14 MR. HERNANDEZ: Yes. I think we're on track for
15 Monday.

16 THE COURT: Great. Thank you. See you tomorrow.

17 (Adjourned to December 13, 2013 at 9:00 a.m.)
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2 GOVERNMENT EXHIBITS

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16 DEFENDANT EXHIBITS

17 Exhibit No. Received

18 E-1 656

19 B-22 690

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